

1 the whole sector gets abandoned.

2 Q. So is it fair, though, someone reading this
3 answer might reasonably assume it relates to speculating
4 on the price?

5 MR. CERESNEY: Objection.

6 THE WITNESS: I don't know what context
7 this answer would have been presented in these
8 years ago. Like I said, I believe the order
9 of these responses are changed, so I can't --

10 I can't tell what you context someone
11 three years ago would have read this in and
12 what conclusions they would have drawn on this
13 one post in isolation.

14 BY MR. TENREIRO:

15 Q. So is it fair to say you are referring to
16 risks not just to Ripple, but to XRP itself in your
17 answer? For example, where you say, "Perhaps some
18 regulators deem XRP to be a security."

19 A. I actually said that here?

20 Q. No. 2.

21 A. Oh, I give that as an example, yeah. Sales
22 to sophisticated investors. Sorry. What was the
23 question, again?

24 Q. Is it fair to say that you --

25 While I understand your testimony that you believe

1 you're answering a question about risks to Ripple, you
2 are, in fact, giving examples of risks to XRP? Such as,
3 for example, the regulatory risk that it might be deemed
4 to be a security?

5 A. Well, I say -- I say that regulatory
6 changes --

7 (Thereupon, an informal discussion was
8 held off the record with the shorthand
9 reporter.)

10 THE WITNESS: In two, I say, "those
11 regulatory changes that might make Ripple's
12 business model impractical."

13 BY MR. TENREIRO:

14 Q. So there's a tie there between Ripple's
15 business model and XRP; fair?

16 A. No, I don't think that's what's happening.
17 What I'm saying is if there was some regulatory change
18 that made Ripple's business model impractical, that
19 would be bad for Ripple. But Ripple could mitigate that
20 by targeting friendlier jurisdictions.

21 Q. One of the risks would be with respect to
22 regulatory risk over XRP; is that what you're saying?

23 A. If it made Ripple's business model
24 impractical.

25 Q. Wouldn't it, at that time?

1 A. There could have been regulatory changes that
2 could have made Ripple's regulatory model impractical.

3 Q. Was XRP being deemed a security one of them?

4 A. I used that as an example here, probably
5 because I thought it was implausible.

6 Q. Why did you think it was implausible?

7 MR. CERESNEY: Objection. Only answer if
8 you can answer that without discussing
9 discussions with counsel.

10 THE WITNESS: Well, I hadn't had any
11 discussions with counsel at that time but it's
12 hard for me to place in time, but I think
13 three -- I don't recall whether three years
14 ago that would have been something I would
15 have considered a significant regulatory risk
16 or not.

17 There was a time I didn't and then there
18 was a time when I did, and I suspect I was
19 using this as an example because -- probably
20 because I didn't think it was plausible. But
21 again, there were times I didn't think it was
22 plausible and times when I did.

23 BY MR. TENREIRO:

24 Q. When were the times you did think it was
25 plausible?

1 A. More recently.

2 Q. In No. 5, you say:

3 "Someone comes up with a better way to bridge
4 international payments than using a digital asset and
5 Ripple is unable to position XRP."

6 What did you mean by that? How is that a risk to
7 Ripple?

8 A. It's a risk to Ripple because Ripple wouldn't
9 have the strategic advantage as it has with XRP, having
10 a significant amount that it didn't have to expend
11 resources to get with any other resource.

12 Q. How -- but -- okay.

13 Now, you preface this by saying that you are
14 telling someone what you think the biggest risks are,
15 right?

16 A. Yes.

17 Q. Why -- why would you list an implausible
18 example when you're listing the biggest risks?

19 MR. CERESNEY: Objection.

20 THE WITNESS: Because I didn't think that
21 that was a significant risk and so I wanted to
22 use a sort of --

23 There's two aspects to how big a risk is.
24 There's how probable it is it will occur and
25 how much damage it does if it does occur.

1 And I listed two -- well, because other
2 people were talking about it and because it
3 could cause a significant amount of damage if
4 it materializes and because there were a
5 number of different regulatory changes that
6 people envisioned at the time.

7 BY MR. TENREIRO:

8 Q. So you -- you understood however improbable
9 you believed it to be that it would cause a significant
10 amount of damage if XRP was deemed a security under U.S.
11 law?

12 A. That's not what I'm saying.

13 What I'm saying is that's one example of a set of
14 potential regulatory risks which in aggregate pose a
15 significant risk.

16 Q. In aggregate, the regulatory risks together?

17 A. Yes, and that's why I placed them on this
18 list, not because there's any one particular risk that I
19 was specifically concerned about.

20 Q. Well, you only placed one on the list, right?
21 You said, "unfavorable regulatory changes," and then you
22 gave one example?

23 A. Right, perhaps.

24 Q. Okay.

25 (Pause.)

1 BY MR. TENREIRO:

2 Q. How would "a horrible personal business
3 scandal affecting key Ripple people" affect XRP?

4 A. There could be reputational damage. People
5 could infer -- people could -- people could conclude
6 that that was like some sort of a stain on XRP itself.

7 I also point out the risk of the company becoming
8 toxic for financial institutions to do business with,
9 meaning the company would also.

10 Q. Let's move on.

11 (Thereupon, an informal discussion was
12 held off the record.)

13 MR. TENREIRO: Break time?

14 MR. CERESNEY: Yeah, we've been going for
15 more than an hour.

16 MR. TENREIRO: Okay. Let's -- break
17 time.

18 THE VIDEOGRAPHER: Off the record at
19 4:10.

20 (Recess taken at 4:10 p.m.)

21 (Resumed at 4:34 p.m.)

22 THE VIDEOGRAPHER: Back on the record at
23 4:34.

24 (Thereupon, a 26-page printout entitled
25 "Ripple sold \$91.6 million of its digital

1 currency XRP last quarter, as the price surged
2 almost 30,000% - Press - Xrp Chat" was
3 introduced as DS Exhibit 34 for identification.)

4 BY MR. TENREIRO:

5 Q. Thank you. Mr. Schwartz, I think we've
6 handed you Exhibit 34, another chat thread. This one
7 has 26 pages and I'm going to focus you on page 17, now
8 we're up to January of 2018. Please take a look --

9 Well, my question is: Is there any other Ripple
10 employee or person associated with Ripple that is as
11 prolific on social media channels as you, as far as you
12 know?

13 A. I doubt it.

14 Q. Okay. What about Mr. Garlinghouse?

15 A. He's probably a little less prolific in
16 total. He's active on Twitter.

17 Q. He's also been around fewer years than you;
18 is that fair?

19 A. Yes.

20 Q. All right. Here, you say:

21 "Programmatic literally means they are made by a
22 program." Are you referring to programmatic sales by
23 Ripple there?

24 A. Yes.

25 Q. What knowledge did you have, as time went on,

1 about programmatic sales generally? And we can atomize
2 this, if you like, but timing, price, generally.

3 A. My understanding is programmatic sales are
4 sales made by market makers who facilitate trades in
5 both direction, both buying and selling, that have a net
6 preference for -- for reducing the amount of XRP they
7 hold and increasing the amount of fiat that they hold.

8 Q. That's very helpful.

9 As time went on, though, were you being kept
10 abreast of -- you know, the parameters of the
11 programmatic sales at all?

12 A. I believe some summaries or presentations
13 were made on a dashboard that was available to all his
14 direct reports. I had access to them. They put up them
15 on screens, but I wasn't specifically following them.

16 Q. Have you ever had a decision-making role with
17 respect to any parameters involving programmatic sales?
18 Again, being timing, amount, pricing, anything like
19 that?

20 A. No.

21 Q. Does Mr. Garlinghouse have any such
22 decision-making role, as far as you know?

23 A. I don't know.

24 Q. Okay. Do you know who has decision-making
25 power over programmatic sales?

1 A. My understanding is that the XRP markets team
2 makes suggestions and then those suggestions would be
3 circulated to staff and they are generally followed.

4 Q. And is that Ms. Madigan, now?

5 A. I don't think so.

6 Q. Who is it?

7 A. I'm not sure. I would have to look at the
8 organizational chart to tell you for sure.

9 Q. Let's move on and back to the exhibit.

10 "Ripple employees, third-party market makers
11 execute these excerpted sales to ensure that we can't
12 control the timing or the volume to manipulate the
13 markets for benefit from insider information and to also
14 ensure that Ripple insiders, including me, can't use
15 intimate knowledge of the sales strategy to their own
16 advantage." Do you see that?

17 A. Yes.

18 Q. How could an insider use intimate knowledge
19 of the sales strategy to their own advantage?

20 MR. CERESNEY: Objection to form.

21 THE WITNESS: If you knew precisely how
22 those trades were being made -- the
23 information that the market makers would have
24 like the actual algorithms they used to trade
25 those trades -- you could trade against them.

1 BY MR. TENREIRO:

2 Q. You could hedge, essentially? You could
3 arbitrage, rather?

4 A. That would be -- that would be probably the
5 most significant. You could arbitrage against them for
6 personal profit.

7 Q. Why doesn't Ripple want that?

8 MR. CERESNEY: Objection to form.

9 BY MR. TENREIRO:

10 Q. To the extent that's what you're saying here,
11 that you have programs to do it -- is that what you're
12 suggesting, that Ripple does not want that to happen?

13 A. Ripple wouldn't want its own employees like
14 independently profiting from knowledge that they have
15 from their employment.

16 Q. Do you know why not?

17 (Pause.)

18 THE WITNESS: I can't really enumerate it
19 any more specifically than that.

20 BY MR. TENREIRO:

21 Q. Well, how about -- I mean, if XRP holders in
22 the market found out that was happening, would that look
23 bad for Ripple, do you think?

24 MR. CERESNEY: Objection.

25 THE WITNESS: I could argue it either

1 way.

2 BY MR. TENREIRO:

3 Q. Well, again, from your participation in
4 social media and things like that, do you have any view
5 as to whether if the market understood that Ripple
6 employees were -- you know, using intimate knowledge of
7 the sales to their own financial advantage, whether that
8 would -- you know, be perceived positive or negative?

9 A. I think it would cause reputational harm,
10 probably not directly financial harm.

11 Q. Just reputational harm?

12 A. I think that would cause reputational harm to
13 Ripple.

14 Q. Then, you say:

15 "These are professional market makers who
16 understand we don't want to kill rallies." What are you
17 referring to by "kill rallies"?

18 A. We didn't want to have an impact on the price
19 of XRP by ourselves.

20 Q. Then, you say:

21 "or engineered the price but want to sell with
22 minimal impact."

23 A. Yes.

24 Q. So is it fair to say Ripple didn't want -- to
25 rally is a price increase, right?

1 A. Right.

2 Q. So Ripple does not -- did not want to sell
3 into a rally such that it would kill the rally?

4 A. Right.

5 Q. Is that fair?

6 A. We did not want to have a negative price from
7 our sales.

8 Q. Why?

9 A. Because we ... I think at that time, our
10 concern was that there was -- that there was a dramatic
11 correlation between those types of actions and price,
12 and so the price would track our actions.

13 Q. There was a concern?

14 A. Yeah.

15 Q. By whom or who had that concern?

16 A. I -- I know I did, from the fact that I wrote
17 this. I don't know that that concern was -- you know,
18 specifically that it was shared.

19 Q. In this post, are you talking on your behalf
20 or are you talking on behalf of the company? You used
21 the word "we" a number of times.

22 A. Yeah, this is my own, personal -- this is my
23 own personal view that I'm stating here.

24 I don't know that it was shared by other people at
25 the company.

1 Q. Now, is it true that Ripple did not have a
2 decision-making authority over timing or volume of
3 programmatic sales?

4 A. My understanding at the time was that we did
5 not have short-term control over timing or volume.

6 Q. Has your understanding changed since?

7 A. No.

8 Q. Have you since come to understand that Ripple
9 did, in fact, sell into or related to information that
10 was being released into the market about XRP?

11 A. I'm sorry. Could you repeat that?

12 Q. Have you --

13 Since the date of this post, have you come to
14 understand whether Ripple has in fact sold into the
15 release of information about XRP? Sold XRP?

16 A. Into the release of -- sorry. I don't
17 understand the question.

18 Q. Yeah, so -- it's poorly worded. Have you --

19 Since the date of this post, have you come to
20 understand whether Ripple has, in fact, sold XRP in
21 conjunction with its release of information about XRP?

22 A. No.

23 Q. If that were true, would you consider that
24 manipulating the market, as you used the terms here?

25 MR. CERESNEY: Objection.

1 THE WITNESS: I would have to look at the
2 facts and circumstances of the particular
3 situation.

4 BY MR. TENREIRO:

5 Q. What do you mean by "manipulate the markets"
6 in this post?

7 A. What I mean is that Ripple would -- would be
8 using programmatic sales to engineer some particular
9 price.

10 Q. That would be manipulating the market?

11 A. I believe at the time that that would be,
12 yes.

13 Q. Has that believe changed today?

14 A. I still believe that if Ripple -- if Ripple
15 sold with the goal of producing particular pricing
16 changes, that that -- I would consider that market
17 manipulation.

18 Q. Let's go to Exhibit 35.

19 (Thereupon, a 10-page printout from
20 Bitcoin Forum entitled "Latest posts of
21 JoelKatz" dated 5/30/17 was introduced as DS
22 Exhibit 35 for identification.)

23 BY MR. TENREIRO:

24 Q. Let's see if we can get to the end. This is
25 going to be a Bitcoin Forum. By the way, before you

1 look at it, have I -- is there any forum I haven't
2 covered?

3 So I've covered Reddit, Bitcoin Forum, Xrp Chat,
4 Twitter. Am I missing one?

5 A. There's a Bitcoin Stack Exchange Forum.

6 But most of those posts are about Bitcoin. They're
7 not as interesting. That would have Ripple-related
8 posts relating to Ripple or XRP?

9 Q. By you.

10 A. By me? You certainly got the biggest ones.
11 I -- I can't think of any others.

12 MR. TENREIRO: Okay. Good job, guys.

13 THE WITNESS: You got Quora? Quora was
14 on that list, right?

15 BY MR. TENREIRO:

16 Q. I didn't see it. Quora? Okay.

17 A. If Quora was not on that list, there would
18 probably be quite a bit on Quora.

19 Q. Okay. All right. So now back to this one.
20 On page 6, there appears to be a response to you on May
21 27, 2017 about -- you know, "FUD."

22 So let's just start -- we've had it at another
23 deposition, but for the record, this one -- what does
24 "FUD" mean?

25 A. "FUD" is fear, uncertainty, and doubt.

1 Q. And that's a -- sort of a [inaudible]
2 community term?

3 A. Yes.

4 Q. Something bad, generally speaking?

5 A. Yes.

6 Q. And bad, because it affects the -- it could
7 potentially could affect the price of an asset?

8 A. Some people might be concerned for that
9 reason.

10 Q. Why was Ripple concerned? Was Ripple
11 concerned about FUD about XRP?

12 A. Yes.

13 Q. Why?

14 A. Ripple was concerned that people having
15 misinformation about XRP or Ripple or Ripple's products
16 might discourage them using XRP or Ripple's products,
17 even where that was the best solution to the products
18 they had.

19 Q. So is it fair to say that Ripple undertook
20 efforts to combat FUD with respect to Ripple or XRP?

21 MR. CERESNEY: Objection.

22 THE WITNESS: I would say I certainly
23 responded to FUD when I saw it and some other
24 people at the company did.
25

1 BY MR. TENREIRO:

2 Q. Who?

3 A. I know [REDACTED] did at the time. I
4 think Brad did.

5 Q. Isn't it fair to say that at times, Ripple's
6 communications department instructed you or suggested to
7 you that you might combat FUD by making certain Tweets?

8 A. I think there probably were fewer than a
9 dozen times where Tweets were suggested, and some of
10 those -- I mean, I can't say right now whether any of
11 those were aimed at combating FUD.

12 Q. Okay, so let me try my question again. Is it
13 fair to say that Ripple undertook efforts, as far as you
14 know, to combat FUD with respect to Ripple or XRP?

15 A. Ripple employees responded to FUD on social
16 media forums.

17 Q. Okay. Here, you say:

18 "Correct. Ripple has consistently defended the XRP
19 market from dumping by insiders." What do you mean by
20 "dumping by insiders"?

21 A. By "dumping by insiders," I mean people who
22 received large amounts of XRP either from Ripple or from
23 the creation of the XRP Ledger in the early days selling
24 large amounts.

25 Q. And what do you mean, "defend the XRP

1 market"?

2 A. What I mean is that --

3 What I mean is that dumping by insiders could
4 produce people who had very large amounts of XRP that
5 they didn't have to spend resources to get, and they
6 could use that, for example, to spam the XRP Ledger with
7 large numbers of transactions or other nefarious
8 purposes.

9 Q. You say:

10 "We've gone to court to do it, and we've negotiated
11 the agreements to do it." Do you see that?

12 A. Yes.

13 Q. Has Ripple gone to court to stop people from
14 spamming the XRP Ledger with transactions?

15 A. No.

16 Q. Has Ripple gone to court to stop people from
17 selling XRP?

18 A. Yes.

19 Q. That's [REDACTED]

20 A. Yes.

21 Q. Okay. Why is that, defending the XRP market,
22 stopping [REDACTED] from selling XRP?

23 A. If someone received a large amount of XRP at
24 a very, very low price, they could use that to spam the
25 XRP Ledger.

1 Q. How would -- I'm sorry. Was [REDACTED]

2 spamming the XRP market?

3 A. The concern wasn't that he would. The
4 concern was that someone who bought the XRP from him
5 could.

6 Q. That they could buy it at a very low price?

7 A. Right, and therefore they would -- the cost
8 to attack the ledger would go down.

9 Q. What was the -- at this time, what was the
10 cost per transaction?

11 A. At this time -- this was 2017? I believe at
12 this time, the -- there was 20 XRP reserve per account,
13 and the cost per transaction was very, very small, like
14 a hundred-thousandth of an XRP.

15 Q. A hundred-thousandth? And the smallest unit
16 did you say was one one-millionth?

17 A. Correct.

18 Q. So one one-hundred thousandths of an XRP is
19 called a "drop"?

20 A. A drop is one one-millionth. A transaction
21 fee was 10 drops, and I think at that time, it was 10
22 drops.

23 Q. At some point, it was 20?

24 A. I don't -- I don't really remember. I
25 believe it did drop over time, but I can't recall right

1 now.

2 Q. Okay, so the concern was --

3 Well, the concern with [REDACTED] selling his XRP
4 was that someone could acquire it to spam the XRP
5 Ledger?

6 A. That someone could acquire it at a very low
7 price, and therefore, the cost to attack the XRP Ledger
8 would go down.

9 Q. Was he selling it at a very low price?

10 A. I don't know.

11 Q. And how does that defend the XRP market?

12 A. At the time -- at the time -- actually ...

13 There were times when I believed that failures of
14 the underlying ledger technology would affect the
15 markets for assets, and I either believed that at the
16 time or was expressing that concern here.

17 Q. And were you expressing here that the market
18 should expect Ripple to stand up to stop any such
19 potential attacks on the XRP market?

20 A. I would hope that someone wouldn't draw that
21 conclusion from this, and what I hoped that they would
22 conclude --

23 And because I said, "by insiders," what I meant was
24 we would take care to ensure we didn't cause those types
25 of problems; not necessarily we would protect from

1 all -- that we wouldn't be a bad actor, not necessarily
2 that we would affirmatively be some sort of defender.

3 Q. Okay. You wouldn't be a bad actor, because
4 you would be the largest holder of XRP for many, many
5 years?

6 A. Yes.

7 Q. Okay, and you're still the largest holder of
8 XRP today?

9 A. Yes.

10 Q. And you expect that to continue for many,
11 many years?

12 A. Yes.

13 Q. Okay, and is there an entity sort of that you
14 know of that does engage in this sort of effort with
15 respect to Bitcoin?

16 So, for example -- you know, going to court to stop
17 dumping by insiders?

18 MR. CERESNEY: Objection.

19 BY MR. TENREIRO:

20 Q. Just that you know of.

21 A. Not that I know of.

22 Q. And what about for Ethereum?

23 A. I don't know the role that the various
24 institutions inside the system play.

25 Q. Okay. Let's look at Exhibit 39, please.

1 (Thereupon, a 24-page document entitled
2 "Can the first usage of xRapid actually flood
3 the market with XRP? - Page 3 - General
4 Discussion - Xrp Chat" was introduced as DS
5 Exhibit 39 for identification.)

6 BY MR. TENREIRO:

7 Q. Back to Xrp Chat. This is 2017 -- November
8 of 2017, page 16.

9 (Pause.)

10 THE WITNESS: Yes.

11 BY MR. TENREIRO:

12 Q. Okay, so you're talking about designing
13 programmatic sales again?

14 A. Yes.

15 Q. You say:

16 "I admit that I find it" --

17 "I admit that I do find it somewhat difficult to
18 believe that the effect on price is negligible." Are
19 you talking there about programmatic sales?

20 A. Yes.

21 Q. So is it fair to say that at least in 2017,
22 it is your intuition that Ripple's programmatic sales,
23 despite being -- you know, channeled through experts,
24 had some downward effect on the price of XRP?

25 A. Yes.

1 Q. Have you exchanged your mind since then?

2 A. I'm -- I'm less certain now than I was then.
3 It still doesn't seem intuitively right to me.

4 Q. Okay. Why?

5 A. Just doing back-of-the-envelope math, just
6 calculating the -- the -- just from basically just
7 looking at the percentage of sales of Ripple and trying
8 to forecast without them there.

9 Q. And then, you say, "My own
10 back-of-the-envelope math suggests that the price is
11 probably about one cent lower now than it would have
12 been if Ripple stopped its programmatic sales one year
13 ago."

14 So just in other words, if Ripple had stopped
15 selling a year before, perhaps the price of XRP would be
16 one cent higher than it was at the time?

17 A. Yes, and I explained the methodology here,
18 which is reconfiguring the market cap with or without.

19 Q. Then, you say:

20 "It ignores two ways Ripple sales can put upward
21 pressure on the price." Do you see that?

22 A. Yes.

23 Q. "One is when Ripple releases XRP, the
24 overhang of Ripple" -- sorry -- "the overhang of XRP
25 Ripple can release in the future is reduced." Do you

1 see that?

2 A. Yes.

3 Q. Explain, please, what you mean by the
4 "overhang of XRP."

5 A. By the "overhang" here, I mean the risk that
6 Ripple would sell a large amount of XRP in a short
7 period of time and reduce the short-term price.

8 Q. So as Ripple has less XRP to sell, the risk
9 that Ripple will sell a lot of XRP goes down?

10 A. Right.

11 Q. And that, you believe, might increase the
12 price of XRP?

13 A. If that overhang is priced in, having a
14 downward effect, then the absence of that overhang could
15 eliminate that downward effect.

16 Q. Was the escrow, in part, designed to
17 eliminate that overhang effect?

18 A. I think there was a belief that the escrow
19 could reduce that overhang effect.

20 Q. And do you -- okay. Then, you say:

21 "The second part is when Ripple gets cash for XRP,
22 that increases Ripple's ability to executes on its plans
23 for XRP. If the probability of Ripple's successful
24 execution of its XRP strategy is part of the price of
25 XRP, then growth in Ripple's reward chat should put

1 upward pressure on the price."

2 So let me see if I can unpack this part. Are you
3 saying here that to the extent that part of the price of
4 XRP is Ripple's chances of successful execution than if
5 Ripple has more money to successfully execute a
6 strategy, that could put upward pressure?

7 Is that what you're saying?

8 A. To that extent, yes.

9 Q. Is the probability of Ripple's successful
10 execution of its XRP strategy part of the price of XRP?

11 A. I have not seen evidence that that is the
12 case.

13 Q. Have you seen evidence that it's not the
14 case?

15 A. Yes.

16 Q. What evidence?

17 A. Lack of correlation between news that would
18 impact Ripple's successful execution of the strategy not
19 correlating to changes in the price.

20 Q. And since when did you see that evidence? Is
21 it after this point?

22 A. It was not -- it was not one particular point
23 where that evidence -- it's just a gradual accumulation
24 of evidence that gradually changes my view.

25 Q. And how --

1 When you were doing that analysis, did you
2 determine -- you know, which news you would expect to
3 have a price effect that you did not see a price effect?

4 A. We looked at news that we thought would
5 impact Ripple's perceived probability of success.

6 Q. Who is "we"?

7 A. Myself and other people at Ripple.

8 Q. Be more specific, please.

9 A. I don't recall who the analysis was done by.

10 Q. Did it -- did the conversations include
11 Mr. Garlinghouse?

12 A. I don't believe Mr. Garlinghouse was involved
13 in the preparation of that information.

14 Q. But the receipt of it? The review of the
15 final analysis?

16 A. I believe he would have seen it.

17 Q. What about Mr. Larsen?

18 A. I think it's less likely that he would have
19 seen it. He was not as actively involved in the company
20 at that time.

21 Q. Okay, and we looked at news --

22 I think I'm quoting your answer. "We looked at
23 news that we thought would impact Ripple's perceived
24 probability of success." Why Ripple's as opposed to
25 XRP's?

1 A. Well, the question here is whether -- the
2 question you asked about is whether the probability
3 of -- whether changes in the probability of Ripple's
4 successful execution of its XRP strategy is part of the
5 price of XRP.

6 So for that analysis, you would look at news events
7 that impact the perception of Ripple's successful
8 execution of its XRP strategy.

9 Q. Is it fair to say that sometimes Ripple made
10 announcements of business activities that did not have
11 to do with XRP?

12 A. Yes.

13 Q. And did you --

14 When you analyzed the effect or lack of effect, did
15 you consider those news events as moments when you
16 analyzed whether there was a correlation?

17 A. We looked at both of those as two hypotheses.
18 One, that people -- that Ripple's probability of success
19 generally was a factor in the price of XRP and one that
20 the success of Ripple's XRP strategy affected the
21 price -- was a factor in the price of XRP.

22 So those are two separate hypotheses. One is sort
23 of a subset of other.

24 Q. Yeah, and you've concluded there's no
25 correlation with respect to both the hypotheses?

1 A. We were unable to find any consistent
2 correlation. There were one or two incidents where
3 there -- there did seem to be correlation in time and
4 very short-term spikes in price, but not enough to draw
5 a conclusion.

6 Q. What were those?

7 A. I -- I cannot remember. I -- I know -- I
8 know the instances that we looked at included things
9 like -- things like the MoneyGram partnership
10 announcement, but I --

11 I don't recall which were the two -- there were two
12 cases where there was a correlation in time. I don't
13 remember what those two incidents were.

14 Q. Was one of them the escrow announcement?

15 A. I'm sure that's one of the ones we looked at.
16 I don't remember whether that's one of the ones where we
17 did see a short-term increase or not.

18 Q. Who would have the sort of results of this
19 analysis or where is it?

20 A. I don't know.

21 Q. Does the company have it?

22 A. Yeah, I would assume so, but I don't know for
23 sure.

24 Q. Was listing on the exchanges one of the
25 events you looked at?

1 A. We did look at listing on -- listings on
2 exchanges to see if we saw a correlation in price.

3 Q. Do you recall reaching a conclusion?

4 A. My recollection was there was in the early
5 days, particularly when one listing was -- if
6 cryptocurrency has only two listings, the third listing
7 could be significant, and there were these short-term
8 spikes in price, and then over time, the market didn't
9 seem to care anymore. Even for cryptocurrencies that
10 had very few listings in the market. The one exception
11 was a cryptocurrency's very first listing.

12 Q. Okay.

13 A. Because there kind of wasn't a price before
14 that, so you almost can't even make a comparison.

15 Q. What was your first listing?

16 MR. CERESNEY: "Yours" meaning?

17 BY MR. TENREIRO:

18 Q. XRP's.

19 A. XRP's? This is going way back. I think it
20 might have been a company called [REDACTED] which doesn't
21 exist anymore.

22 Obviously, that was a very significant listing, but
23 there were no significant exchanges at that point at
24 that time.

25

1 Q. Yeah. The point you're making here, about
2 "When Ripple releases XRP, the overhang of XRP Ripple
3 can release in the future is reduced" --

4 Is that point still true today to the extent that
5 overhang is priced in Ripple reducing the amount of XRP
6 it holds might have upward pressure on the price?

7 A. To the extent that's produced in, it would
8 have -- it could have some upward pressure.

9 Q. Do you have any views what that's priced in
10 today?

11 A. It should be, but it's not.

12 Q. What about the second point, the probability
13 of Ripple's successful execution of its XRP strategy? I
14 understand your correlation point.

15 A. Yeah.

16 Q. Do you have an understanding whether that's
17 priced into the price of XRP?

18 A. I don't think so, because you would expect
19 there to be more of -- if it was priced in, a change in
20 it should change the extent to what it's priced in, and
21 we haven't seen that.

22 So I think while those are reasonable things to
23 expect, the evidence, surprisingly, doesn't support
24 those views. At least, surprising to me.

25 Q. And did you consider the impact of Ripple's

1 sales of XRP into the market that the time as -- you
2 know, whether they would have an effect on price?

3 A. At this time, I personally did that
4 back-of-the-envelope calculation, essentially
5 imagining -- basically, running a counterfactual where
6 Ripple doesn't engage in those trades and assuming all
7 other trades are equal.

8 Q. Sorry. I think I was not clear. So when
9 you're doing --

10 You said people at Ripple did analysis of the
11 correlation and found maybe there were a couple
12 instances where there were some, but less correlation
13 than you expected?

14 A. Right.

15 Q. Okay. When you were doing that analysis, did
16 you sort of control for the fact that Ripple might have
17 been making sales into the market such that those sales
18 might be putting some downward pressure on the price, as
19 you intuitively suggest here?

20 MR. CERESNEY: Objection to the form.

21 THE WITNESS: I -- I don't know.

22 BY MR. TENREIRO:

23 Q. You don't know if you included that or not,
24 if you controlled for that or not?

25 A. I did not look closely at the analysis.

1 Q. Do you think that's something you should look
2 at if you're doing that correlation analysis?

3 MR. CERESNEY: Objection.

4 THE WITNESS: I'm not an economist,
5 but -- I don't know what you should control
6 for.

7 BY MR. TENREIRO:

8 Q. Okay, and you also don't know who has the
9 company's results of the analysis; is that right?

10 A. I don't know.

11 Q. Could you figure that out by like searching
12 your e-mail or -- I'm just trying to figure out how I
13 would get my hands on that. Perhaps the wrong use of --

14 MR. CERESNEY: Objection.

15 MR. TENREIRO: Perhaps the wrong use
16 of --

17 MR. CERESNEY: For several reasons.

18 THE WITNESS: I -- I have a recollection
19 that I saw the report, but it may just be that
20 it was discussed. I don't know -- I'm not
21 even positive I saw the actual document.

22 I know there was a meeting where the
23 conclusions were discussed. My recollection
24 is that that was Breanne's meeting, but I'm
25 not sure at this point.

1 BY MR. TENREIRO:

2 Q. Okay. All right. Let's look at Exhibit 52.

3 (Thereupon, a 10-page document entitled "I
4 am David Schwartz, Chief Cryptographer at
5 Ripple. AMA!" was introduced as DS Exhibit 52
6 for identification.)

7 BY MR. TENREIRO:

8 Q. There's a Reddit, "AMA," meaning "Ask me
9 anything," right?

10 A. Uh-huh. Yes.

11 Q. Okay, and this appears to be --

12 This is 50 pages, and I've only printed 10 of them
13 to save some trees, and I'm going to ask you about pages
14 3, 6, and maybe 9. Sorry, 8. I believe this is from
15 2018.

16 (Thereupon, an informal discussion was
17 held off the record.)

18 MR. CERESNEY: Is this printed out in the
19 sequence which the questions and answers
20 occur? Do you know, Jon?

21 MR. DANIELS: I believe these are
22 uploaded. These are based on votes. It's not
23 really a conversation.

24 MR. CERESNEY: And it --

25 Would Mr. Schwartz's response be to the

1 question immediately before? I'm just asking
2 because if it's showing him an excerpt, I just
3 want to make sure the rest of it's not --

4 MR. TENREIRO: My belief --

5 My understanding is his responses are --
6 as you see here, his responses are the most
7 popular -- you know, upvoted responses to the
8 original post.

9 MR. CERESNEY: Okay, but -- but is --

10 Can you see the questions to which he's
11 responding in this -- in the printout?

12 MR. TENREIRO: Yeah. It's not questions.
13 He responds to --

14 He can correct me if I am wrong. There's
15 a post that's made that I believe he started.
16 "I am the Chief Cryptographer and one of the
17 the original architects," and then people
18 comment.

19 There's 520 comments. People start
20 upvoting the comments that are responding to
21 his post, and then he responds to a comment.

22 MR. CERESNEY: Okay. So what I'm
23 saying --

24 MR. TENREIRO: It's not questions he's
25 responding to. It's more comments.

1 MR. CERESNEY: But you have the comment
2 he's responding to in this comment?

3 MR. TENREIRO: Yes. It's right above his
4 post.

5 BY MR. TENREIRO:

6 Q. Mr. Schwartz, did you understand that to be
7 the presentation as I described it?

8 A. Yes.

9 Q. Okay. So, for example, just to start as an
10 example, on page 3, in the middle, [REDACTED] says,
11 "Hi, David. [REDACTED] mentioned (in the interview at
12 Google) that 'XRP is not static' and open for
13 improvement. Could you elaborate on the possibilities?"

14 Then you say:

15 "Ripple has a team of talented developers working
16 on improving the scalability and reliability of the XRP
17 Ledger."

18 I'm not going to read all of it, but just sort of
19 reading that, do you understand that seems to be a
20 response to the "Hi, David" comment above?

21 A. Yes.

22 Q. Okay, so what are you talking about there?
23 What is Ripple's team of talented developers doing
24 there?

25 A. Making the ledger more powerful, increasing

1 its feature set. I cite specifically features like
2 payment channels and escrows that originated at Ripple.

3 Q. On page 6, you say in the middle:

4 "XRapid is our first enterprise product delivering
5 payments bridged by XRP."

6 Can you explain what that means?

7 A. Yes. The thesis behind xCurrent and the
8 RippleNet strategy was to enable enterprises to bridge
9 payments using XRP. XRapid actually delivered on that.

10 Q. That was the first time that there was a
11 product that was using XRP, potentially?

12 MR. CERESNEY: Objection.

13 THE WITNESS: That was that first time
14 there was a Ripple product that used XRP to
15 bridge off ledger payments.

16 BY MR. TENREIRO:

17 Q. As opposed to the exchange we discussed?

18 A. The decentralized exchange, which could
19 bridge on the payments.

20 Q. Okay, so on page 9, you say:

21 "I think three things really set XRP apart from any
22 other digital asset. One is the amazing team of
23 dedicated professionals that Ripple has managed to
24 unmask the valid ecosystem around XRP."

25 Why is Ripple's team setting XRP apart from other

1 assets?

2 MR. CERESNEY: Hold on. I think you said
3 page 9.

4 MR. TENREIRO: It's page 8.

5 THE WITNESS: Starts on page 8.

6 MR. CERESNEY: Hold on, David. Take a
7 look at that.

8 BY MR. TENREIRO:

9 Q. Yeah, take a look.

10 A. So the question I'm responding to is really
11 specifically focused on the difference between [REDACTED]
12 and Ripple --

13 Q. Uh-huh.

14 A. -- and the core difference between [REDACTED]
15 and Ripple is the team that built the ledger went on to
16 work at Ripple.

17 Q. Well, you say:

18 "I think three things really set XRP apart from any
19 other digital asset." You say your testimony is just
20 setting it apart from [REDACTED]?

21 A. No. I think -- I think I'm -- I think I
22 picked that -- I think one of the reasons I picked that
23 particular thing like to list first and to call out was
24 because of this particular combination of [REDACTED].

25 But I do agree that you could -- you could make a

1 similar comparison with any other digital asset and
2 there will be differences. You know, there would be
3 differences, so this is also something that will set XRP
4 apart, perhaps not the same extent as other digital
5 assets.

6 Q. Those include Bitcoin and Ethereum?

7 A. Yes.

8 Q. Let's move on to Exhibit 57.

9 (Thereupon, a 38-page document entitled
10 "Why the world needs Ripple XRP - Whitepaper"
11 dated January 15, 2020" was introduced as DS
12 Exhibit 57 for identification.)

13 BY MR. TENREIRO:

14 Q. If Ripple sort of disappeared today,
15 what's -- what's -- what do you think would happen to
16 the ODL product?

17 A. I don't think the ODL --

18 MR. CERESNEY: Objection. Objection. Go
19 ahead.

20 THE WITNESS: I don't think the ODL
21 product coexist without Ripple, because it's a
22 Ripple product.

23 BY MR. TENREIRO:

24 Q. In what ways does Ripple -- you know, help
25 the existence of the ODL product?

1 A. Well, Ripple developed the software. Ripple
2 owns the software. It's a proprietary Ripple product,
3 so someone else who wanted to continue it would have to
4 develop the software themselves to meet the requirements
5 of the product.

6 Q. Are there other ways in which Ripple makes
7 efforts with respect to the product other than
8 developing the software?

9 A. (No response).

10 Q. I think you mentioned some partnerships with
11 exchanges. Are there other things that Ripple does with
12 respect to the --

13 A. Ripple pitches the products to customers,
14 gets them to sign contracts and so on.

15 Q. Relationships with market makers for
16 liquidity on certain corridors?

17 A. For corridors that -- yeah, the rate would
18 not be as high without those market makers.

19 Q. And do you --

20 Would the product be viable without those
21 product -- those market makers? At least, on the U.S.
22 dollar/Mexican peso corridor?

23 MR. CERESNEY: Objection.

24 BY MR. TENREIRO:

25 Q. As far as you know?

1 A. I think the --

2 I think today, the USD/MXN peso corridor would be
3 viable at a lower volume level without -- without Ripple
4 incentivizing the market makers.

5 Q. And when did that "today" start?

6 A. I would say probably roughly a year ago, but
7 again, I would have to look at the volume number to say.

8 Those payments had to be fairly small. They tend
9 to be around \$300 or so, which means you don't need that
10 much liquidity in that market.

11 Q. The market makers buy XRP for Mexican pesos?

12 A. Yes.

13 Q. On that side of the tranche?

14 A. Yes. They buy XRP, and they provide the
15 Mexican pesos that are delivered to the recipient.

16 Q. Where do they get the Mexican pesos from?

17 A. Whatever sources they have. Probably foreign
18 exchange.

19 Q. Like a foreign exchange with a bank or ...

20 A. I mean, I'm -- I'm speculating. I'm
21 speculating, here.

22 MR. CERESNEY: And so therefore?

23 THE WITNESS: Yeah, I can --

24 I could speculate where they would get
25 them from, but --

1 MR. CERESNEY: But you're not going to.

2 THE WITNESS: -- wherever market makers
3 will get Mexican pesos from.

4 BY MR. TENREIRO:

5 Q. Do you know in this context?

6 A. I don't.

7 Q. Okay. Let's move on.

8 So what I have is Exhibit 57. I wanted you to look
9 at pages 19 and 21, please. This one is called "Why the
10 World Needs Ripple XRP."

11 A. Yes.

12 Q. You know, in the middle you say:

13 "In practice, we probably have a lot of power right
14 now." Is that power over the Ripple Ledger? Is that --

15 A. Which page?

16 MR. CERESNEY: Nineteen.

17 THE WITNESS: Yeah, and I clarify
18 precisely what I mean in the next sentence.

19 "We could probably do some evil at the
20 margins for a short period of time," so
21 that -- that's about sort of short-term
22 operational, yeah.

23 BY MR. TENREIRO:

24 Q. Yeah, but if you did something evil, people
25 would stop following you, essentially, is what you're

1 saying?

2 A. Right. We would immediately lose that power.

3 Q. And that's probably still true today, to the
4 extent you have any power?

5 A. Right.

6 Q. So Ripple's incentivized by sort of market
7 reactions to not do something "evil"?

8 A. Yeah.

9 Q. Later, you say:

10 "On the other hand, we do hold an awful lot of XRP.
11 We could, for example, crash the market for XRP by
12 selling a huge amount in a short period of time. That
13 will hurt us more than anyone else."

14 Why is that the case? Or why was that the case in
15 2017?

16 A. Because we hold more XRP than anyone else
17 does.

18 Q. But why would crashing the price help -- hurt
19 you?

20 A. That could impact the long-term price, which
21 would mean that we couldn't use our XRP for any of the
22 business purposes that we talked about.

23 Q. Including revenue and developing uses?

24 A. It would include all of them.

25 Q. Is that still true today, that if you did

1 something to crash the market for XRP by selling a huge
2 amount, that would hurt you more than anyone else?

3 A. I believe so.

4 Q. For the same reasons we just discussed, your
5 inability -- you couldn't use your XRP for any of the
6 business purposes that we talked about?

7 A. Right.

8 Q. Okay. Then, you say:

9 "Our comment has demonstrated to date precisely the
10 opposite. We've worked to lock up XRP and we've
11 discussed our plans for how we will release XRP to the
12 world."

13 What do you mean there?

14 A. What I mean is that we've acted in our own
15 interest.

16 We haven't -- we haven't done long-term damage to
17 the XRP ecosystem, because we have an incentive not to
18 do that.

19 Q. Later, you say:

20 "If you think we will be good stewards and our
21 plans are likely to build them in, then you will tend to
22 expect the price to go up."

23 Please explain that.

24 (Pause.)

25 THE WITNESS: I think at that time I did

1 believe the prices were responsive or would be
2 responsive to -- to specific factors of the
3 individual projects.

4 BY MR. TENREIRO:

5 Q. And why you expressing these views publicly?

6 (Pause.)

7 BY MR. TENREIRO:

8 Q. Other than to annoy Mr. Ceresney?

9 MR. CERESNEY: If you recall.

10 (Pause.)

11 THE WITNESS: I mean, I ... I don't know
12 why I was saying that in this particular
13 context at this -- at that time.

14 BY MR. TENREIRO:

15 Q. Okay. Are you aware of Ripple pausing or
16 stopping programmatic sales to stabilize the price of
17 XRP?

18 A. I am aware that Ripple paused programmatic
19 sales at some point. I'm not sure why.

20 Q. Are you aware of any programmatic purchases
21 to stabilize and increase the price of XRP?

22 A. No.

23 Q. Okay.

24 A. Well, I'm -- I am aware -- programmatic
25 purchases? No.

1 Q. Okay. Let's put that aside, Mr. Schwartz.

2 At any point --

3 At any point in time -- and then we can be more
4 specific, but at any point in time, did you have a view
5 as to whether increasing the use cases for XRP could
6 increase its demand?

7 A. Yes.

8 Q. Do you still hold that view today?

9 A. I hold the view that that may become true at
10 some time in the future but is not currently true and
11 hasn't been in most -- in the past.

12 Q. Then it could become true that increasing the
13 use cases for XRP could potentially increase the demand
14 for XRP?

15 A. Yes, at some future point.

16 Q. Is Ripple still engaged in efforts to
17 potentially increase the use for XRP?

18 MR. CERESNEY: Objection. Objection.

19 BY MR. TENREIRO:

20 Q. Okay.

21 A. Ripple is still -- has -- still has engineers
22 who are developing the XRP Ledger, but Ripple releases
23 software that enables people to use the XRP ledger and
24 so on.

25 Q. So is that a "yes"?

1 A. Yes.

2 MR. CERESNEY: I think he's answered the
3 question.

4 BY MR. TENREIRO:

5 Q. Well, is Ripple still engaged in efforts to
6 potentially increase the uses?

7 I just want to understand whether releasing
8 software that enables people to use the software
9 ledger --

10 Are you saying that also could increase the use of
11 XRP itself?

12 A. It --

13 MR. CERESNEY: So -- hold on. Objection
14 to the form. I think that was a compound
15 question.

16 If you can rephrase the question, he can
17 answer the question.

18 BY MR. TENREIRO:

19 Q. All right, so my question was: Is Ripple
20 still engaged in efforts to potentially increase the use
21 for XRP?

22 Your answer -- paraphrasing -- was about engineers
23 enabling people to use the software ledger, so my
24 question is slightly different.

25 Is Ripple still engaged in efforts to potentially

1 increase the use of XRP itself?

2 MR. CERESNEY: Objection.

3 THE WITNESS: I listed things that we're
4 doing. I don't know that I would characterize
5 them that way.

6 BY MR. TENREIRO:

7 Q. How would you characterize those?

8 So releasing software, for example, that enables
9 people to use the software ledger, you would not
10 characterize it as potentially increasing the use of XRP
11 itself?

12 A. I -- I would say that making it easier for
13 people to use the XRP Ledger could increase their use of
14 the XRP Ledger or XRP itself.

15 Q. Is it your testimony Ripple currently is more
16 focused on increasing the use of the XRP Ledger than the
17 use of XRP?

18 (Pause.)

19 THE WITNESS: I don't know that I said
20 that, but I would agree with that statement.

21 (Thereupon, a 34-page document entitled
22 Ripple: 'The fundamental Value of XRP' - Page 5
23 - Press - Xrp Chat" was introduced as DS Exhibit
24 40 for identification.)

25 BY MR. TENREIRO:

1 Q. Let's look at Exhibit 40, please, another
2 chat from December 2017.

3 MR. CERESNEY: What page are we on?

4 MR. TENREIRO: This one will be 17.

5 (Pause.)

6 BY MR. TENREIRO:

7 Q. It seems like the post is or the comment is:

8 "My basic understanding is that a higher price for
9 XRP will create more liquidity, less friction, and
10 greater capacity in the network. I know using XRP=good,
11 but can an expert please educate us, technologically
12 speaking?"

13 And I think you responded:

14 "A higher price tends to correlate with more
15 liquidity. It's not really a direct cause and effect
16 relationship, but they tend to move in tandem."

17 What is the base for that statement?

18 A. As I've explained --

19 Actually, I've explained that in several other
20 places, but the idea is that the higher the value of an
21 asset is, there tends to be more liquidity.

22 It's easiest to understand if you think of very
23 extreme cases, like trying buy a house with Bitcoin when
24 Bitcoin was a dollar versus when Bitcoin was \$60,000.

25 Q. You need fewer Bitcoins?

1 A. Right, and therefore, the market can more
2 easily supply them, even though it's the same price
3 value, yeah.

4 Q. You say next:

5 "The ideal situation for Ripple would be an
6 increasing price over the long term with few downward
7 spikes." Why? Why do you say that?

8 A. Because that would maximize the value that
9 Ripple would be able to get for the XRP it holds, and it
10 would also increase other people's desire to receive XRP
11 to incentivize partnerships and so on.

12 Q. Would it also increase Ripple's revenue, as
13 you say in the next statement?

14 A. Yes. A long-term increase in price would
15 increase the value that Ripple could get themselves.

16 Q. Later, you say:

17 "This is my kind of dream scenario for XRP.
18 Companies that have to make payments around the world
19 buy XRP at below market by facilitating other people's
20 payments and using XRP to make payments below market,
21 because they only have to pay from the 'from XRP' half.

22 All those piles of XRP people are holding increase
23 demand, increasing price, reducing the holding cost of
24 XRP to zero or negative."

25 So are you explaining here that as companies might,

1 for example, buy XRP in something like an ODL
2 transaction, that would increase the demand and
3 therefore the price of XRP?

4 MR. CERESNEY: Objection.

5 THE WITNESS: No, that's not what I'm
6 saying.

7 BY MR. TENREIRO:

8 Q. What are you saying?

9 A. I'm saying that if people held XRP to make
10 their payments, that would increase the value of XRP.

11 Q. And the price? Increased demand, increasing
12 price, correct?

13 A. Well, preventing a decrease in price.

14 Q. So even though it says here "increasing
15 price," you mean -- what you're saying is you mean at
16 least keeping the price the same?

17 A. Right, and that's why I say, "holding cost of
18 XRP to zero," warning. The concern is that it not be
19 dropping in price, not that it necessarily be increasing
20 in price.

21 Q. Later, you say:

22 "Ripple's preferred price of XRP is as high as
23 possible, preferably increasing."

24 A. Right.

25 Q. What do you mean there?

1 A. If the price -- I don't believe this is a
2 possible scenario, but if the price of XRP were reliably
3 increasing over the long term, that would not only
4 maximize what Ripple could get by selling their XRP but
5 also the holding cost of the XRP would be zero or
6 negative. There would be no obstacle as using XRP as a
7 payment source.

8 Q. Let's look at Exhibit 58, please.

9 (An informal discussion was held off the
10 record.)

11 (Thereupon, a three-page document entitled
12 "Considering that the banks don't use XRP coins
13 for their transactions, how can the XRP price go
14 high even if the banks adopt the Ripple
15 platform?" dated 11/12/17 was introduced as DS
16 Exhibit 58 for identification.)

17 BY MR. TENREIRO:

18 Q. Towards the bottom, you say:

19 "If Ripple is successful getting XRP used as a
20 vehicle asset in international payments, new corporates
21 like AirBNB" -- I'm skipping the parenthetical -- "could
22 significantly add to the demand for XRP."

23 Do you see that part?

24 A. Yes.

25 Q. What do you mean there? Well, let me try to

1 short-circuit this -- you know, but please answer fully.

2 Is this the same concept we discussed about if
3 someone needs to utilize the asset, that could increase
4 its demand for the asset?

5 A. Yes, this is the same idea.

6 Q. Later, you say at the bottom:

7 "These forces could be expected to increase the
8 price of XRP."

9 So is this an -- is there an expression of the idea
10 that this demand could also lead to an increase in the
11 price of XRP?

12 A. Yes.

13 Q. Then, you say:

14 "At least, that's what Ripple's betting on. After
15 all, the reason we're doing this is to increase the
16 demand for XRP to increase the value we can extract from
17 our stash of XRP."

18 Do you see that?

19 A. Yes.

20 Q. What did you mean, "the value we can
21 extract"?

22 A. I can't tell you, sitting here today, what I
23 meant four years ago in that sentence.

24 Q. Does Ripple itself use XRP to bridge
25 payments?

1 A. The ODL product does. That's a Ripple
2 product, so Ripple's customers. Yeah, there's an
3 interaction there.

4 Q. Right, and so MoneyGram -- let's -- I know.

5 When MoneyGram was using ODL -- you know, they were
6 relying on the ODL product to sort of, I guess, further
7 their business, one might say?

8 A. Right.

9 Q. But was Ripple -- you know, engaged in this
10 type of -- those type of transactions itself?

11 A. Not to my knowledge.

12 Q. Okay. To the extent -- you know, banks might
13 use the xCurrent product, is Ripple itself using that
14 platform as opposed to selling it or licensing it?

15 A. No.

16 (Thereupon, a Ripple document entitled
17 "Where a community about your favorite things is
18 waiting for you" dated 22 Jun 2017 was
19 introduced as DS Exhibit 59 for identification.)

20 BY MR. TENREIRO:

21 Q. Okay. Let's take a look at Exhibit 59. This
22 has a lot of pages. I'm just going to ask you about the
23 first one.

24 A. Yes.

25 Q. Why are you talking about "how big you want

1 to dream" here?

2 The question is: "Mathematically speaking, what is
3 the highest price Ripple could potentially get to?" and
4 you start by saying, "It all depends how big you want to
5 dream."

6 A. Yes.

7 Q. Why would you be dreaming about how high the
8 price -- it says "Ripple" here, but I assume it's really
9 a reference to XRP?

10 A. Yeah. I'm not sure of the date on this.

11 Q. June -- June 2017.

12 A. Yeah, I believe I assumed they meant XRP.

13 Q. Why?

14 A. Because I don't know what else would have a
15 price.

16 Q. So you're talking about dreaming big with
17 respect to the price of XRP?

18 A. As I understood the question, mathematically
19 speaking -- it requires a sort of mathematical analysis,
20 and in order to do that, you have to sort of --

21 In talking about how high something can go, you
22 have to sort of imagine -- you have to construct -- you
23 have to construct scenarios from the most plausible to
24 the -- you know, less plausible.

25 Q. Were you ever instructed by someone at Ripple

1 not to tout XRP as potentially increasing in price?

2 MR. CERESNEY: Objection.

3 THE WITNESS: Not that I recall.

4 BY MR. TENREIRO:

5 Q. Did you have an understanding that sort of
6 talking about potential increase in price could make XRP
7 more attractive to investors or speculators?

8 MR. CERESNEY: Objection.

9 THE WITNESS: I think it stands to reason
10 that talking to -- that talking about an
11 increase in price would be make something more
12 attractive to speculators.

13 BY MR. TENREIRO:

14 Q. Did that matter to you either way?

15 A. No. I just answered the question.

16 Q. The question that the person posed?

17 A. Yes.

18 Q. Did you -- you know, understand whether
19 making this kind of statement could have consequences in
20 terms of the legal status of XRP under the U.S.
21 securities laws?

22 A. I'm sure I wasn't thinking about that at the
23 time.

24 Q. Okay. Let's go to Exhibit 61, and then we'll
25 take a break.

(Thereupon, a four-page document entitled "Forbes - The Bear Case for XRP - Page 3 - Press - Xrp Chat" was introduced as DS Exhibit 61 for identification.)

BY MR. TENREIRO:

Q. Exhibit 61 is, I think, an excerpted chat. Let's see. "Forbes - The Bear Case for XRP." Do you recall that article in Forbes?

A. Yes.

Q. Okay. It's on page 3. On December 20th, 2017, you say:

"There are a few technical errors, but I think the key thing is to look at his thesis."

A. Yes.

Q. "He seems to concede that Ripple is building a better payments system that banks will use." I'm skipping. Then, you say:

"Nevertheless, he's arguing that despite being able to build massive payments volume, having influence over almost every aspect of the system, with a phenomenal team, a warchest with a notional value in the tens of billions, and every incentive to make it happen, and we still won't be able to get XRP to be used as a settlement asset."

Then, you kind of have what I will describe as sort

1 of a rhetorical conclusion to your statement. What do
2 you mean by "influence over almost every aspect of the
3 system"?

4 A. I believe what I meant there was this was
5 specifically talking about Ripple's payment network, and
6 I meant we choose the customers. We write the software.
7 We develop the software.

8 Even -- you know, RippleNet is a Ripple product.
9 It's -- it's inside Ripple's control in ways that the
10 XRP Ledger is not.

11 Q. The "warchest with a notional value in the
12 tens of billions" -- does that refer to the holdings of
13 XRP that Ripple had?

14 A. That refers to multiplying the current price
15 of XRP times the amount of XRP that Ripple had. That's
16 why I say, "notional."

17 Q. Then "every incentive to make it happen."
18 What does that refer to, that sentence?

19 A. That was Ripple's strategy at the time, was
20 to build that payment network. That was what we were
21 focused on.

22 Q. I just want to understand.

23 When you say, "incentives," are you talking
24 financial incentives or is there something else there
25 that's incentivizing Ripple? For example, does it

1 include reputational incentives?

2 A. I think it would, but I think I was
3 primarily --

4 I think I had financial incentives in mind there,
5 but certainly, other type of incentives probably to a
6 lesser extent as well.

7 Q. Could you --

8 If you have any in mind, could you give them to me,
9 please? Other type of incentives that are not financial
10 ones?

11 A. Initially -- initially, all I was thinking
12 about financial incentives, yes.

13 Q. Okay.

14 A. But there are also reputational incentives as
15 well.

16 MR. TENREIRO: All right. Let's take a
17 break. I just want to see how much time we
18 have left.

19 THE VIDEOGRAPHER: Going off the record,
20 5:29.

21 (Recess taken at 5:29 p.m.)

22 (Resumed at 5:45 p.m.)

23 THE VIDEOGRAPHER: Back on the record at
24 5:45.

25

1 BY MR. TENREIRO:

2 Q. So Mr. Schwartz, is it fair to say over the
3 course of certain years, you held the view that Ripple's
4 efforts to develop a use for XRP might potentially
5 increase demand and therefore the price of the asset?

6 A. There were times when I believed that -- that
7 the price and demand could be influenced by what Ripple
8 was doing to build a use case for XRP.

9 Q. Is it fair to say that, as we've seen over
10 the course of some exhibits today, you expressed that
11 belief publicly on a number of occasions?

12 A. Yes.

13 Q. Okay. Based on your interactions aligned
14 with people interested in the XRP markets or in Ripple
15 generally, did you come to any conclusions as to whether
16 individuals who participate in this market had come to a
17 adopt your own belief that price could be influenced by
18 what Ripple was doing to build a use case for XRP?

19 A. I don't know.

20 Q. Okay. Did you at times have a concern as to
21 when XRP or the sales of XRP, to be more precise, could
22 be deemed to be the sales of a security under U.S.
23 federal law?

24 A. Yes.

25 MR. CERESNEY: Objection.

1 BY MR. TENREIRO:

2 Q. When did that concern arise?

3 A. It would have been as soon as I would -- it
4 would have been shortly before this litigation
5 commenced.

6 Q. What about with -- shortly before this
7 litigation commenced? Okay.

8 Did you have a concern that XRP sales being deemed
9 the sales of a security would harm Ripple's ability to
10 sell XRP?

11 MR. CERESNEY: Objection.

12 By the way, you can answer this if it's
13 not influenced by discussions with counsel.

14 THE WITNESS: I didn't know that it
15 could -- that it could cause harm, but I was
16 concerned that it could potentially.

17 BY MR. TENREIRO:

18 Q. In terms of the ability to sell specifically
19 or other harm?

20 A. Well, I didn't know -- let me back up a
21 little bit.

22 It's always been an objective for both Ripple and
23 myself through Ripple to distribute XRP, and we don't
24 have an effective distribution currently other than
25 sales.

1 So if our ability to sell XRP is impacted, then we
2 would have no other way to distribute it, and that would
3 essentially freeze the distribution of XRP.

4 Q. Have you ever had an effective distribution
5 mechanism other than sales?

6 A. Yes.

7 MR. CERESNEY: Objection.

8 BY MR. TENREIRO:

9 Q. What was that? The giveaways?

10 A. The giveaways.

11 Q. That was in what year?

12 A. I believe they --

13 Well, they must have started in early 2012, but I
14 think they geared up more -- you know, in 2013 or so.

15 Q. Did they stop at some point?

16 A. Yes.

17 Q. When?

18 A. I believe the GitHub giveaway was the last
19 giveaway we did, but I don't recall the timeline.

20 Q. Other than the giveaways and the sales, has
21 Ripple ever had another effective distribution method
22 for XRP?

23 A. I would say --

24 I would say using it to invest would be another one
25 and then giving it to partners to incentivize -- you

1 know, various different behaviors.

2 (Thereupon, an informal discussion was
3 held off the record.)

4 BY MR. TENREIRO:

5 Q. A moment ago, you said you don't have an
6 effective distribution other than sales.

7 So are you saying at some point, you had an
8 effective distribution method such as investing, but you
9 don't have that anymore?

10 A. I -- I think that to the extent that -- I --
11 yeah, I -- I'm not being very precise. Let me be a
12 little more precise.

13 I would expect that if it impacted our ability to
14 sell XRP, it would also impact our -- I think "sell"
15 would be broad enough to cover those other forms of
16 distribution that would impact as well. I don't think
17 it would discriminate in fact some of those means of
18 distribution and not others.

19 Q. Some of them are sales for other -- let's say
20 like cash or fiat. Some of them are distributions as
21 investments or partnerships? That's what you mean?

22 A. Right.

23 Q. Okay, and if I mention something -- you know,
24 if I say, "the Perkins Coie memos," do you know what I'm
25 talking about?

1 A. Yes.

2 Q. What's that?

3 A. There were two memos that Perkins Coie
4 prepared for -- I believe it was OpenCoin at the time
5 but eventually became Ripple, an opinion on the legal
6 risks and implications of what -- what OpenCoin became
7 Ripple was planning to do at that time.

8 Q. Did you read those memos?

9 A. I was given one of those two memos at the
10 time, and I believe I read it briefly at the time, but
11 I -- I didn't look at it closely.

12 Q. So is it fair to say that because you didn't
13 look at it closely, after reading it -- well, did you --

14 After reading it, however closely you read it, did
15 you have any concern as to whether sales of XRP could be
16 sales of securities under U.S. law?

17 A. That was not a concern of mine at that time.

18 Q. Okay. Did you ever share those memos with --

19 Did you ever share either of the memos with
20 anybody?

21 A. I didn't.

22 Q. Did anyone else at Ripple?

23 A. My understanding was that at least one of
24 those memos was -- was intended to be shown to potential
25 investors, but I don't know for sure that it was

1 actually shown to them or which.

2 Q. Where are the memos like kept? Are they on
3 like a share drive somewhere at Ripple?

4 A. I don't know.

5 Q. If you wanted to look for them now, what
6 would you do?

7 A. I would look on the -- the Google documents
8 on the Google drive that I have access to.

9 Q. That's a shared Ripple Google drive?

10 A. Yes.

11 Q. Do you know if they are there or not?

12 A. I have not searched for them.

13 Q. I just want to make sure I understand what
14 you're saying. You are saying they could be there; you
15 just haven't looked?

16 A. Right.

17 Q. Are there other legal memos in there?

18 A. I have not searched for any legal memos, so I
19 don't know.

20 Q. Does Mr. Garlinghouse have access to that
21 drive?

22 A. I don't know.

23 Q. Well, he's your direct report, so have you
24 ever like put a document in it for him to look at?

25 Sorry. You report to him, rather?

1 A. The way I would do it is I would generally
2 designate particular people to have access to the
3 document as opposed to a group generally.

4 So it could be the document is there but he wasn't
5 given access to it, for example.

6 Q. Did you engage in efforts --

7 Did you assist Ripple in efforts with respect to
8 getting exchanges to list XRP?

9 (Pause.)

10 THE WITNESS: The only thing that I ever
11 did to assist exchanges in listing XRP is
12 respond to technical questions that they may
13 have had, at least to my recollection.

14 BY MR. TENREIRO:

15 Q. Did Ripple engage in efforts to get exchanges
16 to list XRP?

17 A. I believe --

18 I believe employees of Ripple talked to exchanges
19 about listing XRP.

20 Q. Why?

21 A. I think the hope was that more listings would
22 open up additional corridors for ODL.

23 (Thereupon, an e-mail chain with the top
24 e-mail dated 7/13/18 from Brad Garlinghouse to
25 Asheesh Birla et al., "Subject: Coinbase

1 decision" was introduced as Exhibit DS 63 for
2 identification.)

3 BY MR. TENREIRO:

4 Q. Let's look at Exhibit 63. This is a one-page
5 e-mail from Mr. Garlinghouse to you. July 13th, 2018 at
6 the bottom.

7 He says, "The more I process Coinbase's decision,
8 the more I think we need to get more aggressive and
9 educate the industry on key variables that are
10 apparently getting little attention."

11 What is Coinbase's decision?

12 A. I believe this was Coinbase's decision not to
13 list XRP, but I'm not sure.

14 Q. Why did Ripple care about that decision?

15 A. Because Coinbase's decision was based on a
16 decision that it was not decentralized.

17 Q. And did you become more aggressive in
18 educating the industry on key variables after that?

19 A. I think we were aggressive beforehand and
20 aggressive afterwards. I don't know that there was any
21 specific change.

22 Q. Were you aggressive in terms of messaging
23 your views about whether or how much the XRP Ledger was
24 decentralized?

25 A. I think that's a fair characterization of my

1 social media postings.

2 Q. And was Ripple aggressive on that point as
3 well, beyond just your postings?

4 MR. CERESNEY: Objection.

5 MR. GERTZMAN: Objection to the form.

6 THE WITNESS: Ripple did circulate a
7 number of documents, discussing the
8 decentralization parameters and the status of
9 the XRP Ledger.

10 BY MR. TENREIRO:

11 Q. What was the purpose of distributing these
12 documents?

13 A. The purpose of distributing those documents
14 was to ensure that market actors like Coinbase had
15 accurate information when they made these kind of
16 decisions.

17 Q. And why did Ripple care about that?

18 MR. GERTZMAN: Objection to the form.

19 THE WITNESS: Ripple was working to
20 increase utility, liquidity, and adoption of
21 the XRP Ledger at the time and concerns about
22 centralization were a drag on adoption.

23 BY MR. TENREIRO:

24 Q. At the top, Mr. Garlinghouse says --
25 essentially paraphrasing, he wanted everyone's help

1 understanding what happened, and what the implications
2 are, and what we can do to attack the problem.

3 Do you see that?

4 A. Yeah, I see that now.

5 Q. Did you come to a conclusion as to what the
6 implications of Coinbase's decisions could be for Ripple
7 or XRP?

8 A. I don't know if it was a consequence of this,
9 but at some time, we were concerned -- we were hoping
10 that Coinbase might be an ODL partner -- obviously, if
11 they don't list the asset.

12 It's hard for me to say in time, but -- that
13 certainly would have been a major concern at one point
14 in time, but I don't remember if that was specifically
15 connected with this decision.

16 Q. Let's look at Exhibit 64, please.

17 (Thereupon, an e-mail chain with the top
18 e-mail dated 7/14/18 from Brad Garlinghouse to
19 Chris Larsen et al. document was introduced as
20 DS Exhibit 64 for identification.)

21 BY MR. TENREIRO:

22 Q. All right. So this is a Saturday, July 14th
23 e-mail, so it's the day after the e-mail we just looked
24 at. Mr. Garlinghouse e-mails you and Mr. Larsen,
25 "Agenda Bullet Points."

1 Do you know why he was e-mailing you and
2 Mr. Larsen?

3 A. No.

4 Q. Below, Miguel Viaz writes:

5 "Exchanges, U.S., Kraken, Bittrex" -- I'm skipping,
6 obviously. Further down, it says "HBUS."

7 What is "HBUS"?

8 (Pause.)

9 THE WITNESS: I don't -- I don't know.

10 BY MR. TENREIRO:

11 Q. Do you see where it says "Not listing at the
12 moment due to litigation and lack of legal opinion from
13 us"?

14 Do you see that?

15 A. Yes.

16 Q. Then it says "itBit -- need regulatory
17 clarity." Do you see that?

18 A. Yes.

19 Q. Did you come to understand exchanges -- at
20 least some exchanges did not list XRP because of lack of
21 a legal opinion from Ripple?

22 A. I was -- I was not aware that was an issue
23 with any exchange until I saw this document.

24 Q. So in 2018 or do you mean now?

25 A. Now.

1 Q. Okay. Did you ever discuss that issue with
2 anyone?

3 A. No.

4 Q. Do you know if Ripple provided legal opinions
5 to these exchanges?

6 A. I don't.

7 Q. Did there come a point in time that you
8 believed XRP was not a security because of the FinCEN
9 settlement?

10 MR. CERESNEY: Objection.

11 THE WITNESS: I -- I did believe XRP not
12 a security both before and after the
13 settlement.

14 BY MR. TENREIRO:

15 Q. So the FinCEN settlement does not change your
16 view?

17 A. The FinCEN settlement was consistent with my
18 view, and so I became perhaps more firmly convinced, but
19 it did not significantly change my view.

20 Q. And what knowledge of the securities law did
21 you have such that you came to that conclusion after the
22 FinCEN settlement?

23 A. Only what I saw from what people discussed on
24 social media regarding the cryptocurrency space.

25 Q. And the base of forever your view before the

1 FinCEN settlement that was not a security was also based
2 on what you saw on social media regarding the
3 cryptocurrency space?

4 A. Yes.

5 Q. Was it based on conversations with lawyers at
6 all?

7 A. No.

8 Q. At some point in time -- let's go to Exhibit
9 80.

10 (Thereupon, a two-page e-mail chain with
11 the top e-mail dated 6/20/18 from [REDACTED]
12 to [REDACTED]@ripple.com was introduced as DS Exhibit
13 80 for identification.)

14 (An informal discussion was held off the
15 record.)

16 BY MR. TENREIRO:

17 Q. It's a two-page -- I think it's sort of a
18 Google Docs compendium.

19 A. Yes.

20 (Pause.)

21 BY MR. TENREIRO:

22 Q. You say:

23 "I think it would make sense to list some of the
24 factors Hinman cited on this chart, particularly the
25 ones that we do well on."

1 Do you see that?

2 A. Yes.

3 Q. What are the factors Hinman cited? What are
4 you talking about?

5 A. I don't recall.

6 From this document, it says Hinman cited some
7 factors on a chart, so I presume I had that in front of
8 me, but I don't recall.

9 Q. "Hinman" being an SEC person?

10 A. Yes.

11 Q. Are you aware that he made a speech sometime
12 around June 2018 about the status of Ethereum?

13 A. Yes.

14 Q. Did you read it?

15 A. No.

16 Q. Okay. So here you are sort of preparing some
17 document, it seems?

18 A. I think that was more just making
19 suggestions.

20 Q. Suggestions for what?

21 (Pause.)

22 BY MR. TENREIRO:

23 Q. Well, who is [REDACTED] ?

24 A. My recollection is that [REDACTED] worked for
25 Ripple Comms at the time.

1 Q. It says:

2 "Warren and David: Can you please help populate
3 this chart with the criteria and data points? Ideally,
4 we want to tell the story that if we believe Bitcoin and
5 Ethereum are decentralized, then the facts also point to
6 the XRP Ledger being decentralized."

7 A. Yes, I see that.

8 Q. Okay. So does this refresh your memory as
9 to -- who were you telling the story to?

10 A. I -- I -- I think anyone -- anyone,
11 particularly regulators.

12 Q. So you prepared talking points for
13 regulators?

14 A. I wouldn't say it was -- I wouldn't say it
15 was talking points, but it was more just an analysis of
16 how we -- how we felt XRP -- the XRP Ledger did on the
17 Hinman factors.

18 Q. But you didn't read the Hinman factors?

19 A. I believe I had that chart, so I knew what
20 the factors were. But I did not review them in detail,
21 so it looks like I selected certain factors from
22 those -- from that.

23 Q. Why are you selecting particularly the ones
24 that "We do well on," and I -- I mean -- I presume "we"
25 means XRP?

1 A. Yeah. I do sometimes think because of my
2 involvement with the XRP Ledger from the early days, I
3 sometimes do -- I kind of think of it like in a
4 person -- in that personal way.

5 Q. Okay. Why are you selecting particularly the
6 ones that XRP does well on?

7 A. At the time, there were a number of factors
8 that people considered relevant for decentralization,
9 some of which that I felt were relevant and many of
10 which that I felt were a distraction -- were not very
11 relevant. And in particular, I felt that the ones that
12 were relevant were ones by which the XRP Ledger did
13 extremely well.

14 Q. As to whether it was centralized or not?

15 A. Yes, that's correct.

16 Q. And then you go -- you know, you list some
17 questions and answers, but you don't answer the last --
18 the last one on this page:

19 "Are independent actors setting the price or is the
20 promoter supporting the secondary market for the asset
21 otherwise influencing trading?"

22 Why didn't you answer that one?

23 A. I didn't feel like I was the person to answer
24 that, but I felt that that was a factor we should
25 address.

1 Q. And was that factor --

2 Did Ripple or XRP do well on that factor at that
3 time, in June of 2018?

4 A. Yes, there were a number of exchanges listing
5 XRP, and that was a robust secondary market.

6 (Pause.)

7 MR. TENREIRO: One second.

8 (Thereupon, an informal discussion was
9 held off the record.)

10 (Thereupon, an e-mail dated 7/23/18 from
11 Miguel Vias to Brad Garlinghouse et al. was
12 introduced as DS Exhibit 66 for identification.)

13 BY MR. TENREIRO:

14 Q. Let's look at Exhibit 66, please. On Exhibit
15 66, there's this "GDAX." Can you state for the record
16 what is GDAX?

17 A. GDAX is a digital asset exchange.

18 Q. And what participation, if any, did you have
19 with -- you know, this application?

20 A. I believe this particular one I just
21 reviewed.

22 Q. Okay. Seems like there's an attachment here,
23 "Supplemental Documentation, B5 Legal Opinion"?

24 A. It says so here, yes.

25 Q. What legal opinion was this?

1 A. I don't know.

2 Q. What other exchange received a legal opinion
3 from Ripple?

4 A. I don't know of any exchange receiving a
5 legal opinion.

6 Q. What exchanges did Ripple represent to that
7 it had received a legal opinion to?

8 A. I don't know.

9 Q. Why would Ripple provide a legal opinion or
10 as to what would Ripple provide a legal opinion to these
11 exchanges?

12 MR. CERESNEY: Objection. He just said
13 he doesn't know of any legal opinion being
14 provided.

15 MR. TENREIRO: And I asked, "Why would
16 Ripple provide a legal opinion?"

17 MR. CERESNEY: Can you answer the
18 question?

19 THE WITNESS: Not without speculating.

20 MR. GERTZMAN: Objection.

21 BY MR. TENREIRO:

22 Q. Do you know this reference, "B5 legal
23 opinion"? Do you know what it is?

24 A. I don't.
25

1 Q. Okay. Let's move on. Do you know what the
2 [REDACTED] is?

3 A. I believe that's a company that Ripple had
4 used as a -- either for public relations or
5 communications.

6 Q. Okay. Why did Ripple hire them?

7 MR. GERTZMAN: Objection to the form.

8 BY MR. TENREIRO:

9 Q. What interactions, if any, have you had with
10 the [REDACTED]?

11 A. That I'm not sure.

12 Q. I'm sorry. You're not sure what interactions
13 you've had, because you can't identify who worked for
14 them; is that right?

15 A. Right. In other words, I've had meetings
16 with people who may have been with the [REDACTED] but
17 I can't place who's with what.

18 Q. Do you know where they worked out of? Did
19 they work out of Ripple's offices?

20 A. I don't think so. I don't believe so, but I
21 don't know.

22 Q. Do you know who they report to, if anyone?

23 A. I sus- -- I believe they report either
24 directly or indirectly to [REDACTED]

25 Q. That's the Comms person at Ripple?

1 A. Right, exactly. Because we use them for
2 Comms. That would have been her, but they would have
3 been reporting indirectly.

4 (Thereupon, an e-mail dated 4/18/17 from
5 [REDACTED] to [REDACTED] et al.,
6 "Subject: Please don't comment on this XRP Chat
7 post" was introduced as DS Exhibit 31 for
8 identification.)

9 BY MR. TENREIRO:

10 Q. Let's look at Exhibit 31, please.

11 (Pause.)

12 BY MR. TENREIRO:

13 Q. This is an April 2017 e-mail. Do you know
14 who [REDACTED] is?

15 A. Yes.

16 Q. Who is it?

17 A. She was a product manager who, I believe, at
18 this time was supporting the C++ team.

19 Q. Those are the programmers?

20 A. Yes.

21 Q. She says, "I know you are very active on Xrp
22 Chat forum and it's good to have employee presence
23 there, but please don't comment on this post regarding
24 Ripple XRP lockup plans." Is that a reference to the
25 time release or escrow?

1 A. I believe so.

2 Q. Do you know why she asked you not to comment?

3 (Thereupon, an informal discussion was
4 held off the record re: Zoom interference.)

5 THE WITNESS: I think she had a concern
6 over either incorrect information or piecemeal
7 release of information.

8 BY MR. TENREIRO:

9 Q. Is it fair to say that to the extent you
10 reported to Mr. Larsen or Mr. Garlinghouse various
11 times, they were aware of your -- the fact that you had
12 an active -- you know, online presence?

13 MR. CERESNEY: Object to form.

14 THE WITNESS: Yes.

15 BY MR. TENREIRO:

16 Q. And what's the basis for you -- what's the
17 basis for your answer? How do you know that they were
18 aware?

19 MR. CERESNEY: Objection.

20 THE WITNESS: We -- we would sometimes
21 respond to each other's posts on Twitter --
22 each other's tweets, and sometimes we would
23 talk about each other -- each other's social
24 media posts.

1 BY MR. TENREIRO:

2 Q. That includes Larsen and Garlinghouse posts?

3 A. I don't know that I ever had that
4 conversation with Chris Larsen, but I -- I don't know
5 for sure he's aware. It would be very surprising to me
6 if he wasn't.

7 Q. Why would you be surprised if he wasn't?

8 A. Just because I believe it's generally known,
9 so even though I didn't discuss it with him.

10 (Thereupon, an e-mail dated 2017-12-21
11 from [REDACTED] to David Schwartz et al.
12 was introduced as DS Exhibit 47 for
13 identification.)

14 BY MR. TENREIRO:

15 Q. Okay. Let's go to Exhibit 47.

16 It's a December 2017 e-mail. I'm not sure why it
17 doesn't have a Bates number, but it's from [REDACTED]
18 [REDACTED] --

19 A. Yes.

20 Q. -- at the [REDACTED] to you.

21 "Hi, David. Sharing a suggested tweet below to
22 amplify the announcement that XRP is on 50 exchanges."
23 What is that about?

24 A. This is a suggested --

25 This is a case where someone at Ripple who

1 apparently works for the [REDACTED] but has an
2 @Ripple.com address is asking me to tweet something.

3 Q. Wait. Where is the @Ripple e-mail address?
4 It says from "[REDACTED]" --

5 A. Oh, I guess not. I thought she was a Ripple
6 employee, but I guess not.

7 Q. So it says "Tweet: \$XRP is more accessible
8 than ever - listed on 50 exchanges with more coming."
9 Did you make that tweet?

10 A. I don't recall.

11 Q. Do you know why they asked you to make that
12 tweet?

13 A. Looks like there's an "insights" post.

14 Q. "Insights" post --

15 A. Yes.

16 Q. -- meaning?

17 A. That's a collection of posts that Ripple
18 makes on various subjects, and they wanted me to draw
19 attention to this one.

20 Q. Do you know why, though, they wanted you to
21 draw attention to this one?

22 A. No.

23 Q. Why would anyone in the market want to know
24 about accessibility of XRP?

25 MR. CERESNEY: Objection.

1 MR. GERTZMAN: Objection to form.

2 THE WITNESS: If you were --

3 If you were going to build a project on
4 the XRP Ledger that used XRP, a concern might
5 be that it would be difficult for people to
6 obtain it.

7 MR. CERESNEY: Are you speculating?

8 THE WITNESS: Yeah, I'm speculating.

9 BY MR. TENREIRO:

10 Q. I'm asking you:

11 Did you ever discuss with the Hatch people or
12 anyone at Ripple why they were asking?

13 You know, "Look. It's my Twitter account. Why are
14 you asking me to tweet these things? Why does anybody
15 care?"

16 A. No, I never asked.

17 Q. Did you have your own view as to why they
18 might want you to make these tweets?

19 A. Yes.

20 Q. What is that view? Your own view?

21 A. My view is that it's difficult to use XRP in
22 a project if the people who are using that project can't
23 easily get access to XRP.

24 Q. Okay, and do you know if Ripple also -- in
25 addition to tweeting out to the -- you know, world, also

1 maybe e-mailed potential project users to let them know
2 that XRP was now on the exchange?

3 A. Not to my knowledge.

4 (Thereupon, an e-mail dated 2018-01-09
5 from [REDACTED] to David Schwartz et al.
6 was introduced as DS Exhibit 48 for
7 identification.)

8 BY MR. TENREIRO:

9 Q. All right. Let's look at Exhibit 48. It's
10 another proposed tweet.

11 (Pause.)

12 THE WITNESS: Yes.

13 BY MR. TENREIRO:

14 Q. Did you tweet this?

15 A. I don't know.

16 Q. Do you agree with this statement?

17 "You're right. It's not like Bitcoin, and it isn't
18 meant to be"?

19 A. Without seeing the tweet that I'm responding
20 to, it's hard for me to know what -- what I'm
21 necessarily agreeing with here.

22 Q. Do you agree with the statement "Ripple is
23 decentralized and recently placed 55 billion in escrow
24 to create certainty of the supply"?

25 A. No, because in 2018, I don't think -- I don't

1 think I would have used the term "Ripple."

2 "@Ripple" here is Ripple's corporate Twitter
3 handle. Ripple is a company and is not decentralized.

4 Q. What is the fact of how --

5 How does 55 billion XRP being in escrow have to do
6 with centralization or decentralization?

7 A. Some people, particularly -- some people
8 connect with -- as a decentralization factor the
9 distribution of the token.

10 Q. The token has been distributed?

11 A. Right, the amount of distribution of the
12 token. I don't, but I don't always push back on it,
13 because you can't fight every battle every day.

14 Q. When you say that the supposed -- the
15 proposed tweet says "real financial institutions are
16 using it," what is "it" there?

17 A. I think that -- I would have to speculate.

18 Q. Don't speculate. Did you --

19 Did you ever have any concerns that -- you know,
20 Ripple's public statements at times might be creating
21 confusion between Ripple and XRP?

22 A. No.

23 Q. You know, here do you know what "[REDACTED]"
24 refers to?

25 A. It refers, to, I believe, an ODL partner.

1 Q. Okay. Did you ever --

2 Did there come a time when Ripple's Comms people
3 might have sort of worked with you to identify -- to
4 evaluate sort of your Twitter followers?

5 A. Yes.

6 Q. What was the purpose of that?

7 A. I think the purpose of that was we had -- we
8 had received an allegation, essentially, that there were
9 bots following me that were trying to amplify or promote
10 Ripple or XRP in a -- in an abnormal or unfair way, and
11 we wanted to determine if that was true or not.

12 Q. For what purpose?

13 A. Well, if it was true, we would want to see if
14 there was something we could do about it, and if it
15 wasn't true, we would have wanted to potentially counter
16 the narrative.

17 Q. And what did you conclude? Was it or was it
18 not?

19 A. We concluded there were bots following me,
20 but most of the -- more of the bots were sort of anti.
21 They were FUD -- bots creating FUD.

22 But by the time we had the analysis complete,
23 nobody was particularly interested in the allegation
24 anymore. It didn't seem useful to dredge up a false
25 allegation, to rebut it when the allegation then went

1 away.

2 Q. Got it. Let's go to --

3 Let me just ask you a couple questions. What is
4 the purpose of the Xpring initiative?

5 A. Initially, the Xpring initiative was like a
6 venture capital arm of -- for Ripple to get us access to
7 being close so we could see what was going on in the
8 industry, perhaps steer projects in better directions,
9 perhaps combat projects.

10 At the time, this was during the ICO craze. We
11 felt that that was harmful and we were trying to steer
12 projects away from that, and later it sort of changed.
13 It changed over time.

14 Q. Let's take a look at Exhibit 68 and 69.
15 Sorry, 68.

16 (An informal discussion was held off the
17 record.)

18 (Thereupon, an e-mail chain with top
19 e-mail dated 7/18/19 from Brad Garlinghouse to
20 David Schwartz" was introduced as DS Exhibit 68
21 for identification.)

22 BY MR. TENREIRO:

23 Q. So Exhibit 68 is a July 18, 2019 e-mail from
24 Mr. Garlinghouse to you, responding to a July 17 e-mail
25 from you to him, where you talk about an issue with

1 Xpring that you're working on that you wanted to make
2 sure he was aware of. Then, you say:

3 "There's a narrative going around on Twitter and
4 some forums feeding into the narrative we're trying turn
5 our XRP into USD as soon as possible and Xpring is a
6 related attempt to diversify its exposure to other
7 cryptocurrency projects because we fear/expect/cause XRP
8 underperforming other cryptocurrencies and this
9 narrative is very harmful to us and untrue."

10 A. Yes.

11 Q. Why did you view this narrative as harmful?

12 A. Because -- because the -- the reality is the
13 opposite.

14 Q. You say, "This narrative is very harmful to
15 us and untrue."

16 Was there another reason, other than it being
17 untrue, why the narrative was harmful?

18 A. I mean, just generally, anyone who
19 describe -- who says that we're doing something for
20 purposes completely different from what we say we're
21 doing creates a reputational risk and perception of
22 dishonesty, and it just -- it just is not -- it's not
23 something anyone should be doing.

24 Q. So --

25 A. It would be saying we're doing one thing

1 while we were doing something completely different.

2 Q. So, for example, it's not true that xPring
3 was an attempt to regulate and diversify its exposure
4 from other cryptocurrencies?

5 A. It -- it had the effect of doing that.

6 But that was not an objective, and we certainly
7 didn't do that because we feared, expected, or caused
8 XRP to underperform other cryptocurrencies.

9 Q. Was one of the purposes of the Xpring
10 initiative to potentially incentivize the development of
11 other uses for XRP?

12 A. Yes.

13 Q. And did the Xpring initiative utilize XRP in
14 any way to provide these incentives?

15 A. I'm not sure what you mean by -- you mean
16 prior to these incentives?

17 Q. No, no. So did --

18 For example, did Ripple incentivize -- did Ripple
19 fund companies -- you know, utilizing XRP?

20 A. Yes.

21 Q. As a part of the Xpring initiative?

22 A. Yes.

23 Q. Did Ripple permit these companies to sell
24 their own XRP to obtain funds for their -- you know,
25 endeavors?

1 A. I don't -- I don't know that we prohibited
2 them from doing so.

3 Q. Was Ripple aware that the companies might be
4 selling the XRP to fund their endeavors?

5 A. I would have to speculate.

6
7 (Thereupon, an e-mail chain with top
8 e-mail dated 3/31/2020 from David Schwartz to
9 Brad Garlinghouse was introduced as DS Exhibit
10 69 for identification.)

11 BY MR. TENREIRO:

12 Q. Okay. Exhibit 69.

13 A. Yes.

14 Q. What is this e-mail from March 2020 referring
15 to?

16 A. This is an e-mail -- well, there's several
17 different e-mails here, but the trigger -- the beginning
18 of all of this was an e-mail from [REDACTED] to
19 Brad Garlinghouse.

20 Q. And could you -- who is [REDACTED]?

21 A. [REDACTED] is a developer who develops
22 on the XRP Ledger. He has a company called [REDACTED]

23 [REDACTED]

24 Q. Okay. Is it fair to say, essentially,
25 that -- I mean, the title -- the subject is "Xpring is a

1 Disaster"?

2 A. Yeah.

3 Q. Okay, so I don't want to spend too much time
4 on his e-mail. I'm more interested in your response,
5 but he's expressing sort of negative views about the
6 Xpring initiative?

7 A. Yes.

8 Q. And what was your response?

9 A. My response was twofold.

10 First, that I think he's being a bit hyperbolic and
11 just -- he's angry, but I think the other part is that
12 there is -- there is some nugget of truth in the
13 criticism.

14 Q. What was a nugget of truth?

15 A. The nugget of truth was that we weren't
16 communicating well what the -- we weren't doing a good
17 job of communicating to people like [REDACTED] what
18 the -- what the purpose of the Xpring project was.

19 Q. Does that include communicating to the market
20 generally?

21 A. It includes communicating to the public
22 generally. We didn't have any specific way to
23 communicate with developers other than communicating
24 with the public.

25 (Thereupon, a 33-page printout entitled

1 "Insiders Dumping? - Page 6 - XRP Trading and
2 Price Speculation - Xrp Chat" was introduced as
3 DS Exhibit 37 for identification.)

4 MR. TENREIRO: Let's look at Exhibit 37,
5 please.

6 MR. CERESNEY: Are we done with this one?

7 MR. TENREIRO: Yeah.

8 MR. CERESNEY: What page?

9 BY MR. TENREIRO:

10 Q. Exhibit 37, page 9 and 12.

11 A. Yes.

12 Q. It seems like you said on May 25, 2017:

13 "Christian didn't leave. He's still pretty much in
14 the office every day."

15 Is that referring to Mr. Larsen?

16 A. Yes.

17 Q. Is this after he stepped down as CEO?

18 A. Yes.

19 Q. And is this consistent with your recollection
20 that you still reported to him after he stepped down as
21 CEO?

22 A. Yes.

23 Q. Is that also true he was focusing more on the
24 strategic things and not running the company's
25 day-to-day operations at that point?

1 A. Yes.

2 Q. On page 12, you seem to say at the end:

3 "Chris Larsen resigned his position as CEO. He's
4 still a board member and almost as active as ever."

5 Do you see that?

6 A. Yes.

7 Q. Was that true at that time?

8 A. Yes.

9 Q. Did that change at some time?

10 A. Yes.

11 Q. When?

12 A. Gradually, over a period of time probably
13 beginning sometime in 2018, he stopped -- he stopped
14 like showing up every day, and it --

15 He started -- he shows up as a board member at
16 board meetings, but his day-to-day responsibility was
17 dropped.

18 Q. Who decided that?

19 A. I assume he did, but I don't know.

20 MR. GERTZMAN: Objection to the --

21 BY MR. TENREIRO:

22 Q. Do you know why that was decided?

23 A. No.

24 MR. CERESNEY: Objection.
25

1 BY MR. TENREIRO:

2 Q. Sorry? Was the answer "no"?

3 A. No, I don't know.

4 Q. So is it fair to say that after he resigned
5 as CEO, there was a period where he was still going to
6 the office every day?

7 A. Yes.

8 Q. Let me -- I'm almost finished.

9 I think we're going to do -- go way back in time.
10 Something I forgot earlier, Exhibit 75.

11 (Thereupon, a nine-page document entitled
12 "Opencoin Features Overview" bearing Bates Nos.
13 DS_RPLI0002158 through DS_RPLI0002166 was
14 introduced as DS Exhibit 75 for identification.)

15 BY MR. TENREIRO:

16 Q. Let me know if you recognize this document.

17 A. I know now that this is a document that
18 [REDACTED] sent me a copy of back in 2012, I believe.

19 Q. What do you mean, you "know now"?

20 A. I don't -- I don't have a recollection of
21 seeing it at that time, but I've been shown this
22 document recently.

23 Q. Okay.

24 MR. CERESNEY: Just to be clear, you've
25 been shown it in preparation?

1 THE WITNESS: Yes.

2 BY MR. TENREIRO:

3 Q. You just don't have a recollection of whether
4 you got it back then or not?

5 A. Right.

6 Q. Your recollection is that [REDACTED] prepared
7 it?

8 A. My recollection from seeing the document
9 in -- in context is that Mr. -- [REDACTED] sent me a
10 copy of it. I don't know that he prepared it.

11 Q. And do you know for what purpose it was
12 prepared?

13 A. I don't.

14 Q. Do you know when it was shared with anyone
15 outside of the company or the founders of the company?

16 A. I believe that [REDACTED] shared it with
17 someone who I considered potentially involving them or
18 the company in some way.

19 Q. Like an investor?

20 A. It might have been. Could have been a
21 potential employee. I don't recall.

22 Q. On the second page, it says "OpenCoin versus
23 Bitcoin." Do you see that?

24 A. Yes.

25 Q. And at the bottom, it says:

1 "Dedicated Team: This is probably our most
2 important advantage. Bitcoin is an open source project
3 without anyone leading it.

4 "OpenCoin, while also open source, will have a
5 potential team of developers and businesspeople behind
6 it." Do you see that?

7 A. Yes.

8 Q. Was that accurate back in 2012?

9 A. That we did or that we would?

10 Q. Well --

11 A. This is -- this is a prediction of the
12 future.

13 Q. Did that turn out to be correct, that
14 OpenCoin had a professional team of developers behind
15 it?

16 A. Depends what ... it's difficult to say,
17 because it's not really clear what it is here, and at
18 the time --

19 I think at the time this was drafted, there wasn't
20 a good understanding of what the role of the company
21 would be versus what the role of the -- the ledger would
22 be.

23 (Thereupon, an eight-page document
24 entitled "David "JoelKatz" Schwartz u/sjoelkatz)
25 - Reddit" dated 7/3/18 was introduced as DS

1 Exhibit 71 for identification.)

2 BY MR. TENREIRO:

3 Q. Let's look at Exhibit 71, please.

4 This is a calculation of posts, but I'm going to
5 focus on the first one.

6 A. Okay.

7 Q. You say:

8 "I will use the analogy of Google again. If Ripple
9 were Google, XRP would be the search engine and the
10 Internet would be Ripple's payment technology."

11 Do you see that?

12 A. Yes.

13 Q. Why are you making this analogy?

14 A. Do you have the date of this document?

15 Q. I think it's 2017. That's my best guess.

16 (Pause.)

17 MR. TENREIRO: Jon, do you know?

18 MR. DANIELS: Hold on.

19 (Thereupon, an informal discussion was
20 held off the record.)

21 THE WITNESS: It would help to see what
22 I'm responding to, but I imagine it was some
23 confusion between what Ripple is and what I
24 said it is.

25

1 BY MR. TENREIRO:

2 Q. Well, do you think that when people talk
3 about the Google search engine, they associate that with
4 Google or with something else?

5 MR. CERESNEY: Objection.

6 THE WITNESS: I don't know that it's a
7 great -- I mean, I was using that example to
8 illustrate a different point.

9 BY MR. TENREIRO:

10 Q. What point were you illustrating?

11 A. The point that I'm illustrating is that the
12 more -- the more value there is in the cryptocurrency
13 and the XRP ecosystem, the more value ... wait. I'm
14 trying to understand the point I'm making. Hold on a
15 second.

16 (Pause.)

17 THE WITNESS: Yeah, I actually do see.
18 it's a terrible analogy and I'm glad I
19 clarified it in the third paragraph, or I
20 wouldn't know what I meant.

21 What I'm saying is that Ripple -- Ripple,
22 like other participants in the cryptocurrency
23 ecosystem, can contribute to technologies like
24 the XRP Ledger and in a ledger, even though
25 they don't have a direct revenue model.

1 Because they -- because they expect to
2 participate in an ecosystem that has the
3 ability to make them money, just like Google
4 helps to build the Internet.

5 Even though Google can't directly
6 monetize the Internet, everything Google's
7 doing works better if the Internet is better.

8 BY MR. TENREIRO:

9 Q. Google monetizes its search engine?

10 A. Google -- the -- Google's search engine is
11 the way it monetizes the Internet.

12 Q. So is XRP the way Ripple monetizes the -- you
13 know, Interledger?

14 MR. CERESNEY: Objection.

15 THE WITNESS: And that's why this analogy
16 is bad. I -- I think I'm trying to say the
17 reverse.

18 BY MR. TENREIRO:

19 Q. Let's move on.

20 A. This -- this is a terrible --

21 Q. I'm sorry.

22 A. It's terribly worded. I mean, it's one
23 document, but this is really poorly worded.

24 MR. CERESNEY: You don't have to
25 apologize.

1 (Thereupon, an informal discussion was
2 held off the record.)

3 BY MR. TENREIRO:

4 Q. So is it a way, then, to monetize the ledger?
5 Is that what you're saying?

6 A. Yeah. What I'm --

7 What I'm trying to say is that if the
8 cryptocurrency ecosystem is healthier -- and the XRP
9 Ledger specifically -- that creates an opportunity for
10 companies like Ripple to build products and services
11 that can make money.

12 Just like a healthier Internet allows Google and
13 its competitors to build better -- have more useful
14 search engines and therefore have better revenue. I
15 think that's what I was trying to say there, but it's so
16 badly worded I can't be sure.

17 MR. TENREIRO: Before we finish, just
18 again on Exhibit 82, I would like to ask what
19 the basis for the assertion for privilege is.

20 MR. CERESNEY: Which is Exhibit 82?

21 MR. TENREIRO: The one you clawed back
22 today.

23 MR. CERESNEY: It's advice provided by an
24 attorney. It's actually a question asked by
25 an attorney of Mr. Schwartz in connection with

1 something the attorney was working on.

2 MR. TENREIRO: Okay. Are you going to
3 tell us what the legal advice is as to?

4 MR. CERESNEY: Well, it's a comment, not
5 a document. It's a question about a document
6 asked by an attorney of Mr. Schwartz, and in
7 the context of that, it talks about a point
8 that they have discussed -- that attorney and
9 Mr. Schwartz have discussed.

10 Therefore, it was -- it reflects a
11 conversation between the attorney and Mr.
12 Schwartz and relates to a comment that the
13 attorney had on the document.

14 (Thereupon, a 31-page document entitled
15 "Master Press Q&A" was introduced as DS Exhibit
16 83 for identification.)

17 BY MR. TENREIRO:

18 Q. Exhibit 83. Here are copies. Last set of
19 questions.

20 (Thereupon, a 10-page entitled "Make XRP
21 Great" was introduced as DS Exhibit 84 for
22 identification.)

23 BY MR. TENREIRO:

24 Q. I'm just going to ask a couple brief
25 questions about Exhibit 83 and Exhibit 84. Do you

1 recognize what Exhibit 83 is?

2 A. I think so.

3 Q. What is it?

4 A. I believe this is a document Ripple provides
5 to employees to help them -- you know what? I'm not --
6 I'm not sure.

7 Q. Have you ever seen this before?

8 A. I think I've seen a similar document, but I'm
9 not sure this is that document.

10 Q. So --

11 A. This looks more detailed than the document
12 that I've seen.

13 Q. A similar document about "Press Q&A Points"?

14 A. A similar document in that it has a list of
15 general questions that people might ask about XRP, the
16 XRP Ledger, or Ripple with like suggested answers.

17 Q. People such as reporters, or what? Or market
18 participants?

19 A. The document that I saw was mostly intended
20 for employees to answer questions that they would
21 encounter.

22 This document looks for detailed than that, and I
23 don't know who it was intended for.

24 Q. Who would the employees encounter questions
25 from?

1 A. The general public.

2 Q. Anybody, right?

3 And Ripple was suggesting how employees should
4 respond to those questions?

5 A. Yes.

6 MR. CERESNEY: Just to be clear, you're
7 not sure this is that document?

8 THE WITNESS: This document looks bigger
9 and more detailed than that, so I don't know
10 that this is ...

11 BY MR. TENREIRO:

12 Q. Let's move on to Exhibit 84.

13 A. But it says:

14 "Please read the corporate narrative and fast
15 facts," so it seems like it's -- but I don't know.

16 Q. Can you please identify Exhibit 84 after
17 you've had a chance to look at it?

18 (Pause.)

19 THE WITNESS: What was your question?

20 BY MR. TENREIRO:

21 Q. Yes. What is this document?

22 A. This looks like a document suggesting radical
23 changes in the way Ripple operates.

24 Q. Who prepared it?

25 A. I don't know.

1 Q. Were you involved?

2 A. No. At least, not to my recollection.

3 Q. On page 3 -- sorry.

4 On page -- it looks like page 7, think. At the
5 front, it says "RPLI_SEC 576405." There's Comment 16.

6 A. Yes.

7 Q. "Thumbs up to David's comment"?

8 A. So I must have commented somewhere.

9 Q. "David: Currently, banks -- at least the
10 ones we are talking to -- do not route liquidity through
11 exchanges," etc.

12 A. Yes.

13 Q. What was the purpose of this document?

14 A. So this is -- this is --

15 I believe what's happened here is this document --
16 which I believe is, at least to some extent, a document
17 that I wrote or commented on -- has been imported into
18 this other document.

19 Q. What was the purpose of it?

20 A. The purpose?

21 Q. At the beginning, it says "Make XRP Great
22 Again." That's the title.

23 A. Well, the person who imported it to that
24 document --

25 That was their title, but my title was "Why Should

1 We Care About XRP Right Now?" They imported my document
2 into their document, I believe.

3 Q. To the extent you mentioned the document was
4 suggesting radical changes in Ripple's strategy, why was
5 that being suggested?

6 MR. CERESNEY: Do we know what time
7 period this is?

8 MR. TENREIRO: I believe, if you look at
9 the front page in the abstract, "While XRP has
10 been in existence for over four years," that
11 should give you a sense, more or less. Four
12 years? Seems like 2017, 2016.

13 THE WITNESS: I mean, this looks like a
14 position of someone who was critical of our
15 current strategy and was suggesting
16 significant changes to that strategy.

17 BY MR. TENREIRO:

18 Q. Strategy as to XRP?

19 A. Yes, and more -- and more broadly, but it
20 seems to be primarily focused on Ripple's strategy as to
21 XRP.

22 MR. TENREIRO: Okay. I'm out of time.

23 THE VIDEOGRAPHER: Okay. This concludes
24 the video deposition --

25 (Inaudible crosstalk.)

1 THE VIDEOGRAPHER: Sorry.

2 MR. CERESNEY: Go off the record.

3 THE VIDEOGRAPHER: Going off the record
4 at 6:37.

5 (Recess taken at 6:37 p.m.)

6 (Resumed at 6:50 p.m.)

7 THE VIDEOGRAPHER: Back on the record at
8 6:50.

9 MR. CERESNEY: Great. I have a few
10 questions, Mr. Schwartz.

11

12 CROSS-EXAMINATION

13 BY MR. CERESNEY:

14

15 Q. I want to hand you all of the exhibits, just
16 a pile of the exhibits that Mr. Tenreiro showed you
17 today. I don't know how many it was, but it was maybe
18 50, 60 exhibits or so.

19 Just take a look at those and tell me how many
20 social media posts have you had over the course of the
21 last nine years relating to Ripple or XRP.

22 A. Probably tens of thousands.

23 Q. Do these exhibits that Mr. Tenreiro showed
24 you today -- do they constitute, essentially, a very
25 small percentage of your total posts?

1 MR. TENREIRO: Object to form.

2 THE WITNESS: They do.

3 BY MR. CERESNEY:

4 Q. And in some of the posts that Mr. Tenreiro
5 showed you and when he questioned you, were there other
6 aspects of those posts that he did not read?

7 A. Yes.

8 Q. And in some of those posts, did you say
9 things that in some respects rebutted some of the pieces
10 of the posts that Mr. Tenreiro showed you?

11 MR. TENREIRO: Again, object to form.

12 Leading your witness.

13 THE WITNESS: Yes.

14 BY MR. CERESNEY:

15 Q. Now, have you in any of your posts over the
16 years made promises to XRP holders that Ripple would
17 take actions to increase the price of XRP?

18 MR. TENREIRO: Object to form.

19 THE WITNESS: I do not believe today that
20 I ever did so.

21 BY MR. CERESNEY:

22 Q. And did you ever make promises to holders of
23 XRP or give them assurances that the price of XRP would
24 rise to a certain level?

25 A. I do not believe I ever did so.

1 Q. In your posts, were you touting that Ripple's
2 actions could increase the price of XRP?

3 A. No.

4 Q. Was that your purpose in any of your posts?

5 A. No.

6 Q. What, generally, was the purpose of your
7 posts overall?

8 A. The general purpose of my posts were to
9 communicate with the world what -- what I was working
10 on, on the XRP Ledger and at Ripple.

11 Q. And did it essentially --

12 MR. CERESNEY: Strike that. No further
13 questions. That's it.

14 MR. TENREIRO: Do any of the individuals
15 want to ask questions?

16 (Thereupon, an informal discussion was
17 held off the record.)

18 MR. GERTZMAN: Nothing on behalf of
19 Mr. Larsen. Thank you.

20 MR. TENREIRO: Okay, and again, I
21 understand obviously we don't agree.

22 But we do want to state again we reserve
23 our rights to bring him back, especially since
24 we only covered 60 out of thousands of posts.

25 MR. CERESNEY: Well, you apparently

1 covered, I assume, what you thought were the
2 most important and you took your seven hours,
3 so of course we will object to that.

4 MR. TENREIRO: Thank you, Mr. Schwartz.

5 THE VIDEOGRAPHER: Going off the record.
6 This is the end of the video deposition of
7 David Schwartz. Going off the record at 6:53.

8 (Thereupon, the deposition adjourned at
9 6:53 p.m.)

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ACKNOWLEDGMENT OF WITNESS

I, DAVID SCHWARTZ, do hereby certify
that the foregoing testimony given by me on
May 26, 2021 is true and accurate, including
any corrections noted on the corrections page,
to the best of my knowledge and belief.

DAVID SCHWARTZ

At _____ in said County
of _____, this _____ day
of _____, _____, personally
appeared DAVID SCHWARTZ, and he made an oath to the
truth of the foregoing corrections by him subscribed.

Before me, _____, Notary
Public. My commission expires _____.

1 STATE OF NEW YORK)
 ss:
2 COUNTY OF NEW YORK)

3 C E R T I F I C A T E
4

5 I, CHERYLL KERR, CSR, a Notary Public
6 within and for the State of New York and a Certified
7 Shorthand Reporter, do hereby certify that the witness
8 whose deposition is hereinbefore set forth, was duly
9 sworn by me and that such deposition is a true record of
10 the testimony given by such witness.

11 I further certify that I am not related to
12 any of the parties to this action by blood or
13 marriage and that I am in no way interested in
14 the outcome of this matter.

15 IN WITNESS WHEREOF, I have hereunto set my
16 hand this 28th day of May, 2021.

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19 CHERYLL KERR, CSR
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ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: SEC v. Ripple Labs, et al.

Dep. Date: May 26, 2021

Deponent: David Schwartz

Reason codes:

1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

Pg.	Ln.	Now Reads	Should Read	Reason
_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____

Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

THIS _____ DAY OF _____, 2021,

(Notary Public) My Commission Expires: _____

Transcript Word Index







































